

Constitutionality of Arizona's Legislative Restrictions of Public Health Powers: *AZ School Boards Assoc. v. AZ*

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Under the Arizona Constitution, “[e]very act shall embrace but **one subject** and matters properly connected therewith, which **subject shall be expressed in the title**[.]” [Ariz. Const. Art. IV, pt. 2, § 13](#). The single subject rule and title requirement ensure that legislators do not combine unrelated provisions into one bill to pass disfavored legislation, and that the legislature gives the public notice of each bill's requirements.

In June 2021, the Arizona legislature passed [HB 2898](#), [SB 1824](#), [SB 1825](#), and [SB 1819](#)—all Budget Reconciliation Bills (BRBs). Each of these bills contained provisions seemingly unrelated to budget reconciliation that stymied or curtailed public health prevention efforts to curb COVID-19. A legal challenge to the constitutionality of these bills resulted in [Arizona School Boards Association Inc. v. State of Arizona](#).

As summarized below, on September 22, 2021, the Maricopa County Superior Court ruled that the following Arizona Laws were **unconstitutional** under Ariz. Const. Art. IV, pt. 2, § 13:

- Sections 12, 21, and 50 of HB 2898;
- Sections 12 and 13 of SB 1824;
- Section 2 of SB 1825;
- SB 1819.

HB 2898: The Arizona Legislature enacted HB 2898 to amend K-12 education appropriations. Section 12 of the bill prohibits (1) school governing bodies from requiring face coverings for its students and staff, and (2) school districts and charter schools from requiring COVID-19 vaccines or face coverings. The court described this provision as a law “[regulating public schools disguised as a budget measure](#).” The State failed to introduce any evidence that this provision was necessary to reconcile the budget. The court ruled that the law is unconstitutional under the **title rule** of Arizona Constitution because the bill's title does not provide notice that it would ban public schools from implementing mask mandates.

SB 1824: The Arizona Legislature enacted SB 1824 to amend the state's health budget. Section 12 prohibits schools from requiring vaccines for which an FDA emergency use authorization has been issued. Under this Section, schools also cannot require any immunizations without a ruling from the Director of the Department of Health Services. Section 13 prohibits any Arizona state or local government from establishing COVID-19 vaccine passports, requiring COVID-19 vaccines, or requiring businesses to obtain patrons' COVID-19 vaccination statuses. These provisions violate the **title rule** because the bill's title does not provide notice that it would regulate the authority to implement vaccine requirements.

SB 1825: The Arizona Legislature enacted SB 1825 to amend higher education appropriations. Section 2 prohibits universities and community colleges from requiring that students obtain COVID-19 vaccinations, wear face coverings, or submit to COVID-19 testing (other than during a significant outbreak). This provision violated the Arizona Constitution's **title rule** because the Bill's title did not provide notice that it would ban universities and community colleges from requiring vaccines, face coverings, or testing.

SB 1819: The Arizona Legislature enacted SB 1819 to amend appropriations relating to state budget procedures. Section 39 prohibits Arizona local governing bodies from issuing any pandemic-mitigating regulations impacting private businesses, schools, churches, or other entities. The provision specifically mentions face covering requirements, business closures, and curfews as examples of prohibited regulations. The court found that SB 1819 violates **both the title rule** and the **single-subject rule**. The title “[relating to budget procedures](#)” did not provide adequate notice of the local public health restrictions. Further, SB1819 contains multiple unrelated subjects that have no logical connection to each other as required via Arizona’s Constitution.

Remedies: The provisions noted above that violate the title rule are void and severed from the bills. Consequently, section 12 of HB 2898, Sections 12–13 of SB 1824, and Section 2 of 1825 are void and severed from the bills. To the extent that provisions in SB 1819 violate the single subject rule, the entire act is rendered unconstitutional.

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