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9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE DISTRICT OF ARIZONA

12
 13 Arizona Alliance for Retired Americans; et
 al.,
 14
 Plaintiffs,
 15
 v.
 16 Katie Hobbs, in her official capacity as
 17 Secretary of State for the State of Arizona,
 et al.,
 18
 Defendants.
 19

No. 2:22-CV-01374-GMS
MOTION TO INTERVENE
(Oral Argument Requested)

20
 21 The Yuma County Republican Committee (“YCRC”) respectfully moves to
 22 intervene as a defendant in this action under Federal Rules of Civil Procedure 24(a)(2) and
 23 (b).¹ This matter specifically deals with registration of voters and the local administration
 24 of elections in Yuma County. YCRC has a unique interest in protecting the integrity of such
 25 activities on behalf of itself, its members, and its candidates.
 26

27
 28 ¹ In accordance with Federal Rule of Civil Procedure 24(c), YCRC has attached a proposed
 Motion to Dismiss the First Amended Complaint as Exhibit A to this Motion.

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MEMORANDUM OF POINTS AND AUTHORITIES

1
2 Elections are uniquely local. “The Framers recognized that the most effective
3 democracy occurs at local levels of government, where people with firsthand knowledge of
4 local problems have more ready access to public officials responsible for dealing with
5 them.” *Garcia v. San Antonio Metro. Transit Auth.*, 469 U.S. 528, 575 n.18 (1985) (citing
6 The Federalist No. 17 p. 107; The Federalist No. 46, p. 316). Indeed, “[p]articipation is
7 likely to be more frequent, and exercised at more different stages of a governmental activity
8 at the local level, or in regional organizations, than at the state and federal levels.” *Id.*
9 (citation omitted).

10 This case concerns a challenge to Senate Bill 1260’s (“SB 1260”) amendments to
11 Title 16 (“Elections and Electors”): A.R.S. § 16-1016(12) (the “Felony Provision”), A.R.S.
12 § 16-165(A)(10) and (B) (the “Cancellation Provision”), and A.R.S. § 16-544(Q)-(R) (the
13 “Removal Provision”) (collectively the “Challenged Provisions”). As three local
14 organizations dedicated to “voter registration activities,” “get-out-the-vote efforts,” and
15 “voter education,” Plaintiffs recognize that the Challenged Provisions have a local impact
16 on election administration. [Doc. 20 at ¶¶ 21-28.] That is exactly why Plaintiffs allege that
17 the implementation of SB 1260 will adversely impact its members in their local efforts to
18 engage and register voters. [*Id.*]

19 In their attempt to invalidate the Challenged Provisions, Plaintiffs name several,
20 elected officials as defendants who are officially charged with either upholding, enforcing,
21 or executing the law. But, the Defendants in this action are not the only ones affected by
22 Plaintiffs’ attempts to overturn duly-enacted election laws that impact voter registration.

23 Unlike Defendants who have a legal obligation related to SB 1260, YCRC is
24 uniquely affected by the law’s local application in Yuma County. In that sense, YCRC’s
25 interests are somewhat similar to Plaintiffs. Like Plaintiffs, YCRC is dedicated to
26 participating in, organizing, and ensuring the integrity of elections in Yuma County.
27 However, YCRC has a different perspective regarding how SB 1260 will work to serve and
28 promote local election integrity interests. YCRC has firsthand knowledge of how laws like

1 SB 1260 actually impact voter registration efforts and ensure that local elections remain
 2 local and free from fraud. Because Plaintiffs seek to invalidate SB 1260’s reasonable
 3 provisions that help ensure only individuals—including YCRC’s membership—legally
 4 authorized to vote in Yuma County are permitted to vote in Yuma County, YCRC has a
 5 direct and significant legal interest in the outcome of this lawsuit.

6 “Rule 24 traditionally receives liberal construction in favor of applicants for
 7 intervention.” *See Arakaki v. Cayetano*, 324 F.3d 1078, 1083 (9th Cir. 2003) (citing
 8 *Donnelly v. Glickman*, 159 F.3d 405, 409 (9th Cir.1998)). The liberal rule of construction
 9 favors intervention here, both as a matter of right under Rule 24(a)(2) and under principles
 10 of permissive intervention under Rule 24(b).

11 **I. The Proposed Intervenor.**

12 YCRC is the official organization providing support for the Republican Party in
 13 Yuma County, Arizona. It registers voters and assists candidates in their campaign
 14 communication, strategy, and planning efforts. It regularly provides information, training,
 15 and activities that support voter registration activities to Yuma County residents. It
 16 specifically engages in voter registration drives in Yuma County and will be directly
 17 impacted by the implementation of SB 1260. As a result of its election engagement and
 18 integrity efforts, YCRC has an interest—their own and those of its members and
 19 candidates—in the rules and procedures governing Arizona’s elections, especially at the
 20 local level. In particular, YCRC has a compelling interest in ensuring (1) the orderly
 21 administration of elections, including voter registration, at the local level, (2) that only
 22 voters qualified to vote in Yuma County cast votes in Yuma County elections, (3) that those
 23 elections are otherwise free of fraud, (4) that its own policies, trainings, and voter outreach
 24 efforts are controlled by reasonable and rationale laws, and (5) that the judiciary takes into
 25 consideration local elections when developing legal theories related to the review of state
 26 election laws. These interests are directly implicated by the Challenged Provisions.

27 **II. YCRC is Entitled to Intervention of Right.**

28 Under Rule 24(a)(2), Federal Rules of Civil Procedure, courts apply a four-part test

1 to determine whether a party has a right to intervene: (1) the motion must be timely, (2) the
 2 proposed intervenor must claim a legally protected interest in the subject of the action,
 3 (3) the action may, as a practical matter, impair that interest, and (4) no existing party
 4 adequately represents the proposed intervenor’s interest. *Wilderness Soc. v. U.S. Forest*
 5 *Serv.*, 630 F.3d 1173, 1177 (9th Cir. 2011) (en banc). YCRC’s motion meets all four
 6 conditions.

7 **A. The Motion to Intervene is Timely.**

8 The Ninth Circuit considers three factors to determine timeliness: “(1) the stage of
 9 the proceeding at which an applicant seeks to intervene; (2) the prejudice to other parties;
 10 and (3) the reason for and length of the delay.” *United States v. Alisal Water Corp.*, 370
 11 F.3d 915, 921 (9th Cir. 2004). All three factors support a determination that YCRC’s motion
 12 to intervene is timely here.

13 YCRC moved to intervene at the nascent of the litigation, just ten days after Plaintiffs
 14 filed their First Amended Complaint (“FAC”) and four days after Plaintiffs filed their
 15 Motion for Preliminary Injunction. [Doc. 20; Doc. 31.] Defendants have not filed an Answer
 16 or other responsive pleading, and YCRC’s application precedes the Court’s return hearing
 17 for Plaintiffs’ Motion for Preliminary Injunction. [See Doc. 32.] This application is prompt
 18 and constitutes no delay. Because YCRC’s expeditious motion to intervene comes before
 19 any substantive development in the case, no party is prejudiced. *See Sierra Club v. EPA*,
 20 995 F.2d 1478, 1481 (9th Cir. 1993) (finding timely intervention where filed “before the
 21 EPA had even filed its answer”), *abrogated in part on other grounds, Wilderness Soc.*, 630
 22 F.3d at 1181. Accordingly, YCRC’s motion to intervene is timely.

23 **B. YCRC Has a Legally Protected Interest in Ensuring that Yuma County**
 24 **Elections Are Limited to Voters Qualified to Vote in Yuma County.**

25 Evaluating whether a proposed intervenor has a legally protectable right in an action
 26 is a “practical” inquiry and “[n]o specific legal or equitable interest need be established.”
 27 *Greene v. United States*, 996 F.2d 973, 976 (9th Cir. 1993). Instead, the applicant must
 28 simply show their interest “is protectable under some law, and that there is a relationship

1 between the legally protected interest and the claims at issue.” *Sierra Club*, 995 F.2d at
 2 1484. In matters challenging “statutory schemes as unconstitutional or as improperly
 3 interpreted and applied . . . the interests of those who are governed by those schemes are
 4 sufficient to support intervention.” *Chiles v. Thornburgh*, 865 F.2d 1197, 1214 (11th Cir.
 5 1989) (quoting 7C C. Wright, A. Miller & M. Kane, *Federal Practice and Procedure*
 6 § 1908, at 285 (2d ed. 1986)). Further, “an interest is sufficient if it is of the type that the
 7 law deems worthy of protection, even if the intervenor does not have an enforceable legal
 8 entitlement or would not have standing to pursue her own claim.” *La Union del Pueblo*
 9 *Entero v. Abbott*, 29 F.4th 299, 305 (5th Cir. 2022).

10 Importantly, political parties, especially at the local level, have a protected interest
 11 in fair election laws, especially where a plaintiff’s claims “could affect the [political party’s]
 12 ability to participate in and maintain the integrity of the election process...” *La Union*, 29
 13 F.4th at 306, 309 (granting intervention as of right); *see also Thomas v. Andino*, 335 F.R.D.
 14 364, 369–70 (D.S.C. 2020) (granting the South Carolina Republican Party’s intervention
 15 due to its interest in “maintaining ballot integrity and preventing voter fraud”).

16 Here, because YCRC’s candidates run for election in Yuma County, it has a distinct,
 17 and legally protectable, interest in ensuring that Yuma County elections are not affected by
 18 votes cast by individuals who are not currently residing in the county. *See American Ass’n*
 19 *of People with Disabilities v. Herrera*, 257 F.R.D 236, 258 (D.N.M. 2008) (holding that
 20 Republican Party of New Mexico had a legally protectable interest in lawsuit challenging
 21 voter registration laws “as a result of running a slate of state-wide candidates”); *Paher v.*
 22 *Cegavske*, No. 3:20-cv-00243-MMD-WGC, 2020 WL 2042365, at *2 (D. Nev. Apr. 28,
 23 2020) (permitting political party to intervene based on its interest in “promot[ing] the
 24 franchise and ensur[ing] the election of [its] candidates”); *Issa v. Newsom*, No.
 25 220CV01044MCECKD, 2020 WL 3074351, at *3 (E.D. Cal. June 10, 2020) (granting
 26 political party’s motion to intervene, based on party’s interest in “advancing their overall
 27 electoral prospects”); *Ohio Democratic Party v. Blackwell*, No. 2:04-CV-1055, 2005 WL
 28 8162665, at *2 (S.D. Ohio Aug. 26, 2005) (explaining that there is “no dispute that the Ohio

1 Republican Party has an interest in the subject matter of this case, given the fact that changes
 2 in voting procedures could affect candidates running as Republicans and voters who were
 3 members of the Ohio Republican Party”).

4 SB 1260 directly protects this interest. The Cancellation and Removal Provisions
 5 ensure that *only* qualified electors living in Yuma County will cast votes in the County by
 6 directing a county recorder to remove a voter from the county’s voter roll and Active Early
 7 Voting List, after confirming that the voter is no longer residing in the county. A.R.S. §§ 16-
 8 165(A)(10), (B), 16-544(Q)-(R). Similarly, the Felony Provision prohibits individuals from
 9 providing an Arizona ballot to persons registered to vote in multiple states (who are more
 10 likely to not currently reside in Arizona). A.R.S. § 16-1016(12).

11 YCRC’s interest in ensuring that only qualified voters vote in Yuma County is
 12 particularly compelling here, because Plaintiffs’ explicit, asserted interest in this case is that
 13 they engage in mass voter registration and mobilization efforts, particularly for voters that
 14 are more likely to *not* reside in Arizona. [Doc. 20 at ¶¶ 21, 24, 25, 27.] It is likely that many
 15 individuals registered and mobilized by these Plaintiff groups will vote in Yuma County
 16 elections—and that many of these individuals will vote against YCRC candidates. Even one
 17 vote could make the difference in an election, particularly in a smaller county like Yuma.
 18 Therefore, YCRC has an interest in ensuring that only those voters qualified to vote in Yuma
 19 County are registered and mobilized by the Plaintiff groups.

20 Thus, YCRC’s interests are not undifferentiated or generalized; they are “direct, non-
 21 contingent, and substantial.” *See California ex rel. Lockyer v. United States*, 450 F.3d 436,
 22 441 (9th Cir. 2006) (cleaned up and quotation omitted)

23 **C. A Judgment in Plaintiffs’ Favor Would Practically and Substantially**
 24 **Impair YCRC’s Interests.**

25 When a proposed intervenor would be “substantially affected in a practical sense by
 26 the determination made in an action, [it] should, as a general rule, be entitled to intervene.”
 27 *Id.* at 442 (quotation omitted); *see also Paher*, 2020 WL 2042365, at *2 (holding that
 28 political party’s interest in “promot[ing] the franchise and ensur[ing] the election of [the

1 party’s] candidates” would be impaired absent intervention into lawsuit challenging
2 election regulations).

3 Here, absent intervention, YCRC will be unable to protect its interests in ensuring
4 that *only* qualified voters vote in Yuma County elections. By ensuring the accuracy and
5 integrity of county voter rolls, SB 1260 is designed to further “the integrity of [the] election
6 process” and the “orderly administration” of elections. *Eu v. S.F. Cty. Democratic Cent.*
7 *Comm.*, 489 U.S. 214, 231 (1989); *Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181,
8 196 (2008). YCRC has a definite and substantial interest in seeing these purposes realized
9 in Yuma County. Over the past two years, Yuma County has been investigating more than
10 a dozen of voting and voter registration fraud cases—including duplicate voting and
11 fraudulent uses of absentee ballots, two issues that would be addressed by the
12 implementation of SB 1260. Exhibit B (collection of reports of voter fraud in Yuma
13 County).

14 If Plaintiffs prevail on any of their claims and some or all of SB 1260 is invalidated,
15 that determination would substantially and primarily impair YCRC’s interests in preventing
16 fraud and ensuring that *only* qualified voters vote in Yuma County elections. When fraud
17 like this is injected into elections, it dilutes YCRC’s member’s representation in local
18 government. Moreover, if the law is invalidated, the voters’ perception about election
19 integrity will be diminished and chill qualified electors—including YCRC members—from
20 voting. Further, YCRC’s direct activities, namely voter registration efforts, will be impacted
21 by the law. This Court should consider YCRC’s local political perspective in making a
22 decision that will have a significant impact on its local elections.

23 **D. None of the Existing Parties Will Adequately Represent YCRC’s Local**
24 **Interest in Ensuring the Laboratory of Democracy Remains Local.**

25 “The burden on proposed intervenors in showing inadequate representation is
26 minimal, and would be satisfied if they could demonstrate that representation of their
27 interests ‘may be’ inadequate.” *Arakaki*, 324 F.3d at 1086. Courts “have often concluded
28 that governmental entities do not adequately represent the interests of aspiring intervenors.”

1 *Fund for Animals, Inc. v. Norton*, 322 F.3d 728, 736 (D.C. Cir. 2003). “[T]he government’s
2 representation of the public interest generally cannot be assumed to be identical to the
3 individual parochial interest of a [proposed intervenor] merely because both entities occupy
4 the same posture in the litigation.” *Utah Ass’n of Counties v. Clinton*, 255 F.3d 1246, 1255-
5 56 (10th Cir. 2001).

6 Here, YCRC’s local political and party interests differ from the current Defendants,
7 who are elected officials charged with administering the State’s election laws. Those
8 Defendants, as they should, “must represent the interests of *all* people in Arizona”—not the
9 specific interests of Republican candidates for public office in local elections. *Planned*
10 *Parenthood Ariz., Inc. v. Am. Ass’n of Pro-Life Obstetricians & Gynecologists*, 227 Ariz.
11 262, 279 ¶ 58 (App. 2011) (emphasis added). “As a result, the state might not give [the
12 Proposed Intervenors’] interests ‘the kind of primacy’ that [the Proposed Intervenors]
13 would.” *Id.* (reversing denial of motion to intervene when state could not adequately
14 represent interests of associations that, like the state, sought to uphold a challenged law,
15 since state had to represent all Arizonans) (quoting *Fund for Animals, Inc.*, 322 F.3d at
16 736)).

17 Similarly, the County Recorder Defendants (including the Yuma County Recorder)
18 are charged with representing their counties as a whole, rather than YCRC’s interests in
19 representing just its local Republican members. *See Coal. of Ariz./N.M. Counties for Stable*
20 *Economic Growth v. DOI*, 100 F.3d 837, 845 (10th Cir. 1996) (holding that Government’s
21 representation is inadequate where it must represent the interest of the public but also the
22 private interest of the proposed intervenors); *see also Mille Lacs Band of Chippewa Indians*
23 *v. Minnesota*, 989 F.2d 994, 1000-01 (8th Cir. 1993) (holding that counties and landowners
24 could intervene as of right because their local and individual interests were not adequately
25 represented by the State).

26 It is not hard to imagine the many interests Defendants might consider in defending
27 against SB 1260 that diverge from YCRC’s. As elected officials, Defendants may consider
28 “the social and political divisiveness of the election issue,” “their own desires to remain

1 politically popular and effective leaders,” or even the interests of Plaintiffs. *Meek v.*
 2 *Metropolitan Dade County*, 985 F.2d 1471, 1478 (11th Cir. 1993), *abrogated on other*
 3 *grounds Dillard v. Chilton Cty. Comm’n*, 495 F.3d 1324, 1332 (11th Cir. 2007); *see also*
 4 *Berger v. N.C. State Conference of the NAACP*, 142 S.Ct. 2191, 2205 (2022) (noting that
 5 attorney general charged to defend the constitutionality of state law, while a “vigorous
 6 advocate . . . is also an elected official who may feel allegiance to the voting public”). The
 7 County Recorder Defendants may have an interest in reducing the additional, administrative
 8 burdens which might be imposed by SB 1260.

9 In contrast, YCRC is directly engaged in voter registration activities, which are
 10 largely the focus of Plaintiffs’ claims. Although Plaintiffs claim similar interests, YCRC
 11 takes an opposing position and will show, as a matter of law, that SB 1260 does not impact
 12 any rights or the ability to engage in lawful, protected voter registration activities. Unlike
 13 the current parties, YCRC will also lean on its (1) firsthand experience in engaging in voter
 14 registration efforts, (2) membership who are seeking to be registered in Yuma County, and
 15 (3) its members and candidates in Yuma County that are rightfully concerned with the grave
 16 risk of fraud stemming from former residents continuing to vote in Yuma County.

17 These divergent interests create a risk that the current parties: are not going to make
 18 the same arguments as YCRC; are less likely to pursue an appeal if Plaintiffs succeed in
 19 their arguments; or may seek a convoluted settlement that is not in the best interests of local
 20 political parties actually engaged in voter registration efforts. *See Meek*, 985 F.2d at 1478.
 21 Because YCRC’s interests do not wholly align with the existing parties, none of them can
 22 adequately represent those discrete interests.

23 * * *

24 For all these reasons, YCRC should be granted intervention as of right.

25 **III. Alternatively, Permissive Intervention Should be Granted under Rule 24(b).**

26 Even if intervention was not proper under Rule 24(a)(2), Rule 24(b) supplies an
 27 independent basis for Proposed Intervenor’s permissive intervention. The Court may allow
 28 permissive intervention when the applicant makes a “timely motion” demonstrating that it

1 “has a claim or defense that shares with the main action a common question of law or fact.”
 2 Fed. R. Civ. P. 24(b)(1)(B). A court may grant permissive intervention where: “(1) the
 3 [proposed intervenor] shows independent grounds for jurisdiction; (2) the motion is timely;
 4 and (3) the applicant's claim or defense, and the main action, have a question of law or a
 5 question of fact in common.” *Greene*, 996 F.2d at 978.

6 Of note, Arizona courts frequently grant permissive intervention to political parties
 7 in election-related litigation. *See Mi Familia Vota v. Hobbs*, No. CV-21-01423-PHX-DWL,
 8 2021 WL 5217875, *2 (D. Ariz. Oct. 4, 2021) (granting permissive intervention to
 9 Republican and Democratic intervenors because they demonstrated the *Greene* factors);
 10 *Ariz. Democratic Party v. Hobbs*, No. CV-20-01143-PHX-DLR, 2020 WL 6555189, *1-2
 11 (D. Ariz. June 19, 2020) (granting permissive intervention to State of Arizona because
 12 allowing intervention “when the case is in its infancy, will not likely result in significant
 13 delay” and the intervenor “might have information or arguments that will be useful for the
 14 Court in evaluating [the important constitutional claims regarding Arizona’s voting laws]”);
 15 *Feldman v. Arizona Sec’y of State’s Off.*, No. CV-16-01065-PHX-DLR, 2016 WL 4973569,
 16 *2 (D. Ariz. June 28, 2016) (granting permissive intervention to elected Republican officials
 17 because intervenors brought a “different perspective to the complex issues raised in this
 18 litigation [and t]he Court might benefit from hearing these viewpoints”).

19 First, as discussed *supra*, and similar to Plaintiffs, YCRC “accomplishes its mission
 20 by ensuring that its members are able to register to vote and meaningfully participate in
 21 Arizona’s elections through voter registration activities such as encouraging voter
 22 registration at member meetings and phone banking drives.” [See Doc. 20 at ¶ 21 (Arizona
 23 Alliance), ¶ 25 (Voto Latino), ¶ 27 (Priorities)]. YCRC will also “need to divert resources”
 24 from other work to educate “its members and other voters about SB 1260 and how they can
 25 remain registered to vote and remain on the correct active early voting list despite the
 26 Removal and Cancellation Provisions” and on SB 1260’s “requirement to affirmatively
 27 mark and return early ballots intended for previous residents.” [See Doc. 20 at ¶ 22 (Arizona
 28 Alliance)]. But, contrary to Plaintiffs, YCRC sees no negative impact on and only

1 enhancement of its activities related to SB 1260.

2 Second, and as discussed *supra*, Section II.A., this Motion was timely filed prior to
3 the return hearing. Intervention will not cause delay or any prejudice to the existing parties.

4 Third, Plaintiffs' claims, and the YCRC's defense to the allegations of
5 unconstitutionality (as laid out in the attached Motion to Dismiss), embrace the same subject
6 matter and question of law—*i.e.*, the constitutionality of certain provisions in SB 1260 and
7 the enhancement of the integrity of local election administration. *See Kootenai Tribe of*
8 *Idaho v. Veneman*, 313 F.3d 1094, 1110 (9th Cir. 2002), *abrogated in part on other grounds*
9 *by Wilderness Soc.*, 630 F.3d 1173 (9th Cir. 2011) (granting permissive intervention and
10 noting that the applicant's "asserted defenses . . . [are] directly responsive to the claims for
11 injunction asserted by plaintiffs. . ."). The challenged provisions in SB 1260 are
12 constitutionally valid, and they will protect and ensure fair and orderly elections at the local
13 level, including in Yuma County.

14 A judgment granting Plaintiffs their requested relief will directly and necessarily
15 impact YCRC's local interests in upholding the Challenged Provisions. Furthermore, there
16 is no indication what effort, if any, the various elected officials will undertake to defend the
17 well-reasoned election administration law that is SB 1260. As a result, it will only assist the
18 Court in balancing Plaintiffs' perspective with YCRC's similar (but opposing) interests.
19 The Court should welcome all interested parties' positions (election officials, political
20 parties, organizations involved in voter registration efforts, and actual voters), including
21 YCRC, in adjudicating the constitutionality of the Challenged Provisions, especially
22 because those provisions have a dramatic impact on the local administration of elections
23 and ensuring the integrity of the election process. *Cf. Berger*, 142 S.Ct. at 2203 ("[I]n a suit
24 challenging state law, a full consideration of the State's practical interests may require the
25 involvement of different voices with different perspectives.").

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CONCLUSION

For the foregoing reasons, the Court should find YCRC is entitled to intervene as a matter of right, pursuant to Rule 24(a)(2). Alternatively, the Court should permit YCRC to intervene, under Rule 24(b).

Respectfully submitted this 12th day of September, 2022.

SNELL & WILMER L.L.P.

By: *s/ Brett W. Johnson*

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CERTIFICATE OF SERVICE

I certify that, on September 12, 2022, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing, which automatically sends a Notice of Electronic Filing to all counsel of record.

s/ Tracy Hobbs _____

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