

REFERENCE TITLE: county election law amendments

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

## **SB 1363**

Introduced by  
Senator Gould

AN ACT

AMENDING SECTIONS 16-222, 16-230, 16-241, 16-250, 16-351, 16-571 AND 41-1202,  
ARIZONA REVISED STATUTES; RELATING TO ELECTIONS AND ELECTED OFFICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-222, Arizona Revised Statutes, is amended to  
3 read:

4 16-222. Vacancy in the office of United States senator or  
5 representative

6 A. When a vacancy occurs in the office of United States senator or  
7 representative in Congress by reason of death or resignation, or from any  
8 other cause, the vacancy shall be filled at the next general election. At  
9 such election the person elected shall fill the unexpired term of the vacated  
10 office.

11 B. For a vacancy in the office of representative in Congress, if the  
12 next general election is not to be held within six months from the date of  
13 the occurrence of the vacancy, the governor shall call a special primary  
14 election and a special general election to fill the vacancy. The governor  
15 shall call the special primary election and establish its date within  
16 seventy-two hours after the office is officially declared vacant.  
17 Notwithstanding sections 16-313, 16-351 and 16-542, for a candidate for  
18 office at an election held pursuant to this subsection, the following apply:

19 1. The special primary election shall be held no less than eighty nor  
20 more than ninety days after the occurrence of the vacancy, and the special  
21 general election shall be held not less than fifty nor more than sixty days  
22 after the special primary election.

23 2. Nomination papers and nomination petitions shall be filed no later  
24 than thirty days after the date of the proclamation calling the election.

25 3. Any court action challenging the nomination of a candidate shall be  
26 filed no later than 5:00 p.m. on the fifth business day after the last day  
27 for filing nomination papers and petitions.

28 4. The superior court shall hear and render a decision within five  
29 days after the filing of the action.

30 5. Beginning fifteen days before the date of the election, the county  
31 recorder or other officer in charge of elections shall mail early ballots  
32 within forty-eight hours after receipt of a complete and correct early ballot  
33 request from persons qualified to vote.

34 C. For a vacancy in the office of United States senator, the governor  
35 shall appoint a person to fill the vacancy. That appointee shall be of the  
36 same political party as the person vacating the office and shall serve until  
37 the person elected at the next general election is qualified and assumes  
38 office. IF THE PERSON VACATING THE OFFICE CHANGED POLITICAL PARTY  
39 AFFILIATIONS AFTER TAKING OFFICE, THE PERSON WHO IS APPOINTED TO FILL THE  
40 VACANCY SHALL BE OF THE SAME POLITICAL PARTY THAT THE VACATING OFFICEHOLDER  
41 WAS WHEN THE VACATING OFFICEHOLDER WAS ELECTED OR APPOINTED TO THAT OFFICE.

42 D. For a vacancy in the office of representative in Congress that  
43 occurs simultaneously with at least one hundred additional vacancies in the  
44 office of representative in Congress as prescribed by 2 United States Code  
45 section 8, a special general election to fill the vacancy in this state shall

1 be held no more than forty-nine days after the declaration of the vacancy  
2 unless a regularly scheduled general election or previously scheduled special  
3 general election is held within seventy-five days after the declaration of  
4 the vacancy.

5 Sec. 2. Section 16-230, Arizona Revised Statutes, is amended to read:  
6 16-230. Vacancy in certain state or county offices: election

7 A. Notwithstanding any other statute and except as prescribed by  
8 subsection C of this section, for state and county offices that provide for a  
9 four-year term of office, the following applies if there is a vacancy in  
10 office due to death, disability, resignation or any other cause:

11 1. If a state office becomes vacant, the governor shall appoint a  
12 person of the same political party as the person vacating the office to fill  
13 the portion of the term until the next regular general election. **IF THE**  
14 **PERSON VACATING THE OFFICE CHANGED POLITICAL PARTY AFFILIATIONS AFTER TAKING**  
15 **OFFICE, THE PERSON WHO IS APPOINTED TO FILL THE VACANCY SHALL BE OF THE SAME**  
16 **POLITICAL PARTY THAT THE VACATING OFFICEHOLDER WAS WHEN THE VACATING**  
17 **OFFICEHOLDER WAS ELECTED OR APPOINTED TO THAT OFFICE.** If the vacancy occurs  
18 within the first two years of the term, and before the date on which a  
19 nomination paper is required to be filed as prescribed by section 16-311, a  
20 primary election shall be held as otherwise provided by law to determine  
21 candidates to fill the unexpired term. At the next regular general election,  
22 the person elected shall fill the remainder of the unexpired term of the  
23 vacant office.

24 2. If a county office becomes vacant, the board of supervisors shall  
25 appoint a person of the same political party as the person vacating the  
26 office to fill the portion of the term until the next regular general  
27 election. **IF THE PERSON VACATING THE OFFICE CHANGED POLITICAL PARTY**  
28 **AFFILIATIONS AFTER TAKING OFFICE, THE PERSON WHO IS APPOINTED TO FILL THE**  
29 **VACANCY SHALL BE OF THE SAME POLITICAL PARTY THAT THE VACATING OFFICEHOLDER**  
30 **WAS WHEN THE VACATING OFFICEHOLDER WAS ELECTED OR APPOINTED TO THAT OFFICE.**  
31 If the vacancy occurs within the first two years of the term, and before the  
32 date on which a nomination paper is required to be filed as prescribed by  
33 section 16-311, a primary election shall be held as otherwise provided by law  
34 to determine candidates to fill the unexpired term. At the next regular  
35 general election, the person elected shall fill the remainder of the  
36 unexpired term of the vacant office.

37 B. A person who is elected to fill the remainder of an unexpired term  
38 of a vacant office pursuant to subsection A of this section may take the oath  
39 of office and begin the remainder of the term of office at any time within  
40 ninety days after the canvass of the election. A person who is appointed  
41 pursuant to subsection A of this section shall remain in office until the  
42 person elected pursuant to this subsection takes the oath of office.

43 C. This section does not apply to the office of governor.

1           Sec. 3. Section 16-241, Arizona Revised Statutes, is amended to read:  
2           16-241. Presidential preference election; conduct of election

3           A. A presidential preference election shall be held on the fourth  
4 Tuesday in February of each year in which the president of the United States  
5 is elected to give qualified electors the opportunity to express their  
6 preference for the presidential candidate of the political party indicated as  
7 their preference by the record of their registration. **A PRESIDENTIAL**  
8 **PREFERENCE ELECTION SHALL BE CONDUCTED ENTIRELY AND EXCLUSIVELY AS A MAIL**  
9 **BALLOT ELECTION AS OTHERWISE PRESCRIBED BY CHAPTER 4, ARTICLE 8 OF THIS**  
10 **TITLE.** No other election may appear on the same ballot as the presidential  
11 preference election.

12           B. Notwithstanding subsection A of this section, the governor may  
13 issue a proclamation that the presidential preference election is to be held  
14 on a date earlier than the fourth Tuesday in February. The proclamation  
15 shall be issued no later than one hundred fifty days before the date of the  
16 election as set forth in the proclamation. The governor shall transmit a  
17 copy of the election proclamation to the ~~clerk~~ **CLERKS** of the county boards of  
18 supervisors.

19           C. Except as otherwise provided in this article, the presidential  
20 preference election shall be conducted and canvassed in the same manner as  
21 prescribed in this title for the primary election held pursuant to section  
22 16-201. All provisions of other laws that govern elections and that are not  
23 in conflict with this article apply to a presidential preference election,  
24 including laws relating to registration and qualifications of electors.

25           D. Unless otherwise specifically prescribed by this article, the  
26 powers and duties conferred by law on boards of supervisors, officers in  
27 charge of elections, county recorders, precinct boards and central counting  
28 boards in connection with a primary election are conferred on those persons  
29 for purposes of a presidential preference election and shall be exercised by  
30 them for a presidential preference election.

31           E. Every act that is an offense pursuant to the election laws of this  
32 state is an offense for purposes of a presidential preference election, and a  
33 person is subject to the penalties prescribed by those laws.

34           Sec. 4. Section 16-250, Arizona Revised Statutes, is amended to read:  
35           16-250. Expenses of election

36           A. The secretary of state in consultation with the county recorders  
37 and the county officers in charge of elections shall include in the budget  
38 request for the department of state sufficient monies from the state general  
39 fund to conduct the presidential preference election prescribed by this  
40 article.

41           B. Reimbursement of charges incurred by the counties for the  
42 presidential preference election shall be made at ~~one dollar twenty-five~~  
43 ~~cents for each active registered voter who is registered in that county on~~  
44 ~~January 1 of the presidential preference election year. If the secretary of~~  
45 ~~state determines that reimbursement at that rate would jeopardize a county's~~

1 ~~compliance with federal and state laws and regulations, the secretary of~~  
2 ~~state may release a county from that rate of reimbursement~~ ONE HUNDRED PER  
3 CENT OF THE COSTS INCURRED AS EVIDENCED BY A PROPER CLAIM SUBMITTED TO THE  
4 SECRETARY OF STATE.

5 Sec. 5. Section 16-351, Arizona Revised Statutes, is amended to read:

6 16-351. Limitations on appeals of validity of nomination  
7 petitions; disqualification of candidate

8 A. Any elector filing any court action challenging the nomination of a  
9 candidate as provided for in this chapter shall do so no later than 5:00 p.m.  
10 of the tenth day, excluding Saturday, Sunday and other legal holidays, after  
11 the last day for filing nomination papers and petitions. The elector shall  
12 specify in the action the petition number, line number and basis for the  
13 challenge for each signature being challenged. Failure to specify this  
14 information shall result in the dismissal of the court action. Within ten  
15 days after the filing of the action, the superior court shall hear and render  
16 a decision on the matter. Such decision shall be appealable only to the  
17 supreme court, and notice of appeal shall be filed within five days after the  
18 decision of the superior court in the action. The supreme court shall hear  
19 and render a decision on the appeal promptly.

20 B. Any elector may challenge a candidate for any reason relating to  
21 qualifications for the office sought as prescribed by law, including age,  
22 residency or professional requirements, if applicable.

23 C. In any action challenging a nomination petition, the following  
24 persons are indispensable parties to the action and shall be named and served  
25 as defendants:

- 26 1. The candidate whose petition is the subject of the challenge.
- 27 2. The officer with whom the petitions are required to be filed.
- 28 3. The board of supervisors and the recorder of each county or the  
29 clerk of each city or town who is responsible for preparing the ballots that  
30 contain the challenged candidate's name.

31 D. For the purposes of an action challenging nomination petitions, the  
32 board of supervisors and the recorder of each county or the clerk of each  
33 city or town responsible for preparing the ballots that contain the  
34 challenged candidate's name and each person filing a nomination petition  
35 under this chapter appoints the officer with whom the candidate files the  
36 nomination paper and petitions as the person's agent to receive service of  
37 process. Process in an action challenging a nomination petition shall be  
38 served immediately after the action is filed and in no event more than  
39 twenty-four hours after filing the action, excluding Saturdays, Sundays and  
40 other legal holidays. Immediately on receipt of process served on the  
41 officer as agent for a person filing a nomination petition, the officer shall  
42 mail the process to the person and shall notify the person by telephone of  
43 the filing of the action.

44 E. Notwithstanding the system used pursuant to section 16-163,  
45 subsection D, the most current version of the general county register at the

1 time of filing of a court action challenging a nomination petition shall  
 2 constitute the official record to be used to determine on a prima facie basis  
 3 by the challenger that the signer of a petition was not registered to vote at  
 4 the residence address given, or at the address on the general county register  
 5 if a mailing address was given, on the date of signing of the petition. This  
 6 subsection does not preclude the challenged candidate from introducing into  
 7 evidence a certified copy of the registration form of any signer of a  
 8 petition dated on or before the date of the signing of the petition if the  
 9 registration form is in the possession of the county recorder but has not yet  
 10 been filed in the general county register.

11 F. FOR ANY CHALLENGE OF A CANDIDATE'S NOMINATING PETITION FOR WHICH  
 12 THE COUNTY RECORDER OR OFFICER IN CHARGE OF ELECTIONS IS REQUIRED TO CONDUCT  
 13 SIGNATURE VERIFICATION AND TO WHICH THE COUNTY RECORDER OR OFFICER IN CHARGE  
 14 OF ELECTIONS IS A PARTY, THE COURT MAY AWARD TO THE COUNTY RECORDER OR  
 15 OFFICER IN CHARGE OF ELECTIONS THE REASONABLE EXPENSES INCURRED IN SIGNATURE  
 16 VERIFICATION.

17 ~~F.~~ G. In addition to the procedures set forth in this section, all  
 18 petitions that have been submitted by a candidate who is found guilty of  
 19 petition forgery shall be disqualified and that candidate shall not be  
 20 eligible to seek election to a public office for a period of not less than  
 21 five years.

22 Sec. 6. Section 16-571, Arizona Revised Statutes, is amended to read:  
 23 16-571. Poll lists to be kept by election clerk; posting

24 A. In precincts in which electronic poll book systems are not used, at  
 25 least one election board clerk shall keep a list in duplicate of persons  
 26 voting, and the name of each person who votes shall be entered thereon and  
 27 numbered in the order of voting.

28 B. In precincts in which electronic poll book systems are not used,  
 29 the poll list as prescribed in section 16-516 shall be written on one side  
 30 only, and ~~the TRIPLICATE copies thereof shall be legible triplicate copies~~  
 31 MAY BE PROVIDED. Immediately upon the completion of each page of the poll  
 32 list AND IF COPIES ARE AVAILABLE, one copy shall, upon request, be given to a  
 33 representative designated by each major political party. In an election with  
 34 nonpartisan candidates or ballot issues, the officer in charge of the  
 35 jurisdiction that is conducting the election may designate who is to receive  
 36 copies of the poll lists. For the purposes of this subsection, "major  
 37 political party" means the two parties receiving the highest number of votes  
 38 for governor or presidential electors at the last election.

39 C. In precincts in which electronic poll book systems are used, at  
 40 least one list of persons voting shall be available by printed or electronic  
 41 media. The list shall be in substantially the same format as prescribed in  
 42 section 16-516 and on request shall be given to a representative designated  
 43 by each major political party. The information contained in the list also  
 44 may be provided electronically to a representative designated by each major

1 political party by way of a secure electronic file transmittal format as  
2 prescribed by the secretary of state.

3 Sec. 7. Section 41-1202, Arizona Revised Statutes, is amended to read:  
4 41-1202. Vacancy in legislature; precinct committeemen;  
5 appointment; definition

6 A. If a vacancy occurs in the legislature and the vacant seat was  
7 represented by a political party that is organized pursuant to title 16,  
8 chapter 5, article 2 and that has at least thirty elected committeemen who  
9 are from precincts that are in the legislative district and that are in the  
10 county in which the vacancy occurred, the following apply:

11 1. The secretary of state shall notify the state party chairman of the  
12 appropriate political party of the vacancy. Within three business days after  
13 notification of the vacancy by the secretary of state, the state party  
14 chairman of the appropriate political party or the chairman's designee shall  
15 give written notice of the meeting to fill the vacancy to all elected  
16 precinct committeemen of the appropriate political party from precincts that  
17 are in the legislative district and that are in the county in which the  
18 vacancy occurred.

19 2. Those elected precinct committeemen shall nominate, within  
20 twenty-one days after notification of the vacancy by the secretary of state  
21 if the legislature is not in regular session or within five days if the  
22 legislature is in regular session and by a majority vote, three qualified  
23 electors to fill the vacancy who meet the requirements for service in the  
24 legislature and who belong to the same political party and reside at the time  
25 of nomination in the same district and county as the person elected to or  
26 appointed to the office immediately before the vacancy.

27 3. The meeting to fill the vacancy is subject to title 38, chapter 3,  
28 article 3.1, and the state party chairman of the appropriate political party  
29 shall oversee the nominations. Fifty per cent or more of the elected  
30 precinct committeemen of the district who are in the legislative district and  
31 from the county in which the vacancy occurred, or their proxies, meeting  
32 together constitutes a quorum for the purposes of this subsection. A  
33 precinct committeeman may choose to permit the use of a proxy that:

34 (a) Is given by the precinct committeeman to another elected precinct  
35 committeeman for the legislative district in which the vacancy occurred for  
36 use at the meeting to fill the vacancy.

37 (b) Only is valid for the length of the meeting for which it was  
38 given.

39 (c) Is attested by a notary public or two witnesses.

40 4. The state party chairman of the appropriate political party shall  
41 forward the names of the three persons named pursuant to paragraph 2 of this  
42 subsection to the board of supervisors of the county of residence of the  
43 person elected or appointed to the office immediately before the vacancy  
44 occurred. The board of supervisors shall appoint a person from the three  
45 nominees submitted.

1           5. If the elected precinct committeemen of the appropriate political  
2 party fail to fill the vacancy within twenty-one days if the legislature is  
3 not in regular session or within five days if the legislature is in regular  
4 session, as provided in subsection A, the state party chairman shall notify  
5 the board of supervisors of the appropriate county and the board of  
6 supervisors shall fill the vacancy as provided in subsection B. The time  
7 frame for appointing a citizens panel shall run from receipt of notification  
8 from the state party chairman.

9           B. If the vacant legislative seat was represented by a political party  
10 that is organized pursuant to title 16, chapter 5, article 2 and that has  
11 fewer than thirty elected committeemen who are from precincts that are in the  
12 legislative district and that are in the county in which the vacancy occurred  
13 or if the vacant legislative seat is not represented by a political party  
14 that is organized pursuant to title 16, chapter 5, article 2, the following  
15 apply:

16           1. The board of supervisors of the county of residence of the person  
17 elected to or appointed to the office immediately before the vacancy shall  
18 appoint within three business days after a vacancy occurs a citizens panel to  
19 submit to the board within seven business days the names of three qualified  
20 electors who are members of the appropriate political party and who are  
21 residents of the legislative district and county in which the vacancy  
22 occurred to fill the vacancy. If the person elected to or appointed to the  
23 office immediately before the vacancy was a registered independent, the  
24 qualified electors shall be registered as independent.

25           2. Within five business days after receiving the list of names  
26 submitted by the panel and by a majority vote of all of the supervisors  
27 sitting as a board, the board of supervisors shall appoint one person from  
28 the list of names submitted by the panel to fill the vacancy.

29           C. For the purposes of this section, "appropriate political party"  
30 means the same political party of which the person who was elected to or  
31 appointed to the office was a member immediately before the vacancy occurred  
32 EXCEPT THAT IF THE PERSON VACATING THE OFFICE CHANGED POLITICAL PARTY  
33 AFFILIATION AFTER TAKING OFFICE, THE PERSON WHO IS APPOINTED TO FILL THE  
34 VACANCY SHALL BE OF THE SAME POLITICAL PARTY THAT THE VACATING OFFICEHOLDER  
35 WAS WHEN THE VACATING OFFICEHOLDER WAS ELECTED OR APPOINTED TO THAT OFFICE.