

REFERENCE TITLE: school boards; vacancies; board appointment

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2075

Introduced by
Representatives Petersen, Livingston, Shope, Stevens, Thorpe: Borrelli,
Boyer, Coleman, Farnsworth, Mitchell, Townsend, Senator Biggs

AN ACT

AMENDING SECTIONS 15-302, 15-421, 15-422, 15-424 AND 15-502, ARIZONA REVISED
STATUTES; RELATING TO SCHOOL DISTRICT GOVERNING BOARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 15-302, Arizona Revised Statutes, is amended to
3 read:
4 15-302. Powers and duties
5 A. The county school superintendent shall:
6 1. Distribute all laws, reports, circulars, instructions and forms
7 that he may receive for the use of school officers.
8 2. Record all official acts.
9 ~~3. Appoint governing board members of school districts to fill all~~
10 ~~vacancies, but the term of the appointment shall be until the next regular~~
11 ~~election for governing board members, at which time a successor shall be~~
12 ~~elected to serve the unexpired portion of the term. Within thirty days after~~
13 ~~notification of a vacancy, the school district governing board may submit up~~
14 ~~to three names to the county school superintendent for consideration of an~~
15 ~~appointment to fill the vacancy. The county school superintendent is not~~
16 ~~required to appoint a governing board member from the list of names submitted~~
17 ~~by the governing board. The county school superintendent, if he deems it in~~
18 ~~the best interest of the community, may call a special election to fill the~~
19 ~~vacancies. If an election is called, the newly elected member shall serve~~
20 ~~for the remainder of the unexpired portion of the term.~~
21 ~~4.~~ 3. Make reports, when directed by the superintendent of public
22 instruction, showing matters relating to schools in his county as may be
23 required on the forms furnished by the superintendent of public instruction.
24 ~~5.~~ 4. Have such powers and perform such duties as otherwise
25 prescribed by law.
26 ~~6.~~ 5. On or before October 1 of each year, make a report to the
27 superintendent of public instruction showing the amount of monies received
28 from state school funds, special school district taxes and other sources, the
29 total expenditures for school purposes and the balance on hand to the credit
30 of each school district at the close of the school year.
31 ~~7.~~ 6. Contract with the board of supervisors for the board of
32 supervisors to conduct all regular school district elections.
33 ~~8.~~ 7. Be responsible, in cooperation with the governing boards and
34 the board of supervisors, for all special school district elections.
35 ~~9.~~ 8. Maintain teacher and administrator certification records of
36 effective dates and expiration dates of teachers' and administrators'
37 certificates in compliance with guidelines prescribed in the uniform system
38 of financial records for those school districts for which the county school
39 superintendent is the fiscal agent. The county school superintendent shall
40 not draw a warrant in payment of a teacher's, substitute teacher's or
41 administrator's salary unless the teacher, substitute teacher or
42 administrator is legally certified during the fiscal year in which the term
43 for payment is demanded.
44 ~~10.~~ 9. Notify a school district three years before the expiration of a
45 revenue control limit override that the school district's budget must be

1 adjusted in the final two years of the override pursuant to section 15-481,
2 subsections P and Q, if the voters do not approve another override.

3 ~~11.~~ 10. In collaboration with the department of education and other
4 state agencies, provide assistance to school districts and charter schools on
5 the use of student data, staff development, curriculum alignment and
6 technology to improve student performance.

7 ~~12.~~ 11. Assist schools in meeting yearly adequate progress goals as
8 defined by criteria established by the state board of education and
9 implemented by the department of education.

10 B. At the request of school districts and charter schools, the county
11 school superintendent may provide discretionary programs in addition to the
12 programs prescribed in subsection A of this section.

13 C. The county school superintendent may provide the services
14 prescribed in subsections A and B of this section in the county or jointly
15 with two or more counties pursuant to title 11, chapter 7, article 3.

16 D. Each county school superintendent may establish an advisory
17 committee to the office of the county school superintendent.

18 Sec. 2. Section 15-421, Arizona Revised Statutes, is amended to read:

19 15-421. Governing board; members; qualifications; statement;
20 definitions

21 A. The governing body of a school district shall be a governing board.
22 There shall be three governing board members, except as otherwise provided by
23 this section and section 15-425, subsection A.

24 B. The governing body of a high school district shall be a governing
25 board composed of:

26 1. In a single district, the governing board members of the common
27 school district.

28 2. In a union high school district, five members.

29 C. A person who is a registered voter of this state and has been a
30 resident of the school district for at least one year immediately preceding
31 the day of election is eligible for election to the office of governing board
32 member.

33 D. No employee of a school district or the spouse of such employee may
34 hold membership on a governing board of a school district by which such
35 employee is employed.

36 E. A member of one governing board is ineligible to be a candidate for
37 nomination or election to or serve simultaneously as a member of any other
38 governing board, except that a member of a governing board may be a candidate
39 for nomination or election for any other governing board if the member is
40 serving in the last year of a term of office. A member of a governing board
41 shall resign the member's seat on the governing board before becoming a
42 candidate for nomination or election to the governing board of any other
43 school district, unless the member of the governing board is serving in the
44 last year of a term of office.

1 F. Notwithstanding section 15-511, each county school superintendent
2 shall publish on its website the statement of each certified candidate for
3 membership on a school district governing board located in the county. The
4 county school superintendent shall list each school district on its website
5 from which a link shall be established to the candidate's name, which shall
6 link to the candidate's statement and photograph. The candidate shall submit
7 the statement to the person at the county school superintendent's office
8 assigned to manage candidate statements, after notice of certification from
9 the county school superintendent's office but not later than twenty-one days
10 before the date that general election early ballots are allowed to be mailed.
11 The person shall post each candidate's statement on the county school
12 superintendent's website not later than fourteen days before the date that
13 general election early ballots are allowed to be mailed. If a candidate does
14 not submit a statement, the county school superintendent's website shall
15 state "no response submitted" for the candidate. The candidate statements
16 shall be posted on the website alphabetically by each school district and by
17 candidate. The candidate statement shall be typewritten or electronically
18 submitted. The county school superintendent shall post the statements
19 verbatim as they are received unless a candidate requests in writing that
20 typographical errors be corrected. The candidate statement shall contain the
21 following items in the same size and format for each candidate:

- 22 1. A recent photograph of the candidate.
- 23 2. A statement not to exceed five hundred words.

24 G. Persons related as immediate family who have the same household of
25 residence within four years prior shall not serve simultaneously on the
26 governing board of the same school district if the governing board is
27 composed of five members. A qualified elector who resides in the school
28 district may bring an action in superior court to enforce this subsection.

29 H. A person related as immediate family who has the same household of
30 residence within four years prior to a member of the governing board of the
31 same school district is ineligible to be a candidate for nomination or
32 election to that governing board if the governing board is composed of five
33 members, except that a person related as immediate family who has the same
34 household of residence within four years prior to a member of a governing
35 board may be a candidate for nomination or election to the governing board of
36 the same school district if the member is serving in the last year of a term
37 of office. A qualified elector who resides in the school district may bring
38 an action in superior court to enforce this subsection.

39 I. Persons related as immediate family who have the same household of
40 residence within four years prior are ineligible to be simultaneous
41 candidates for nomination or election to the governing board of the same
42 school district if the governing board is composed of five members. A
43 qualified elector who resides in the school district may bring an action in
44 superior court to enforce this subsection.

1 J. WITHIN THIRTY DAYS AFTER NOTIFICATION OR DETERMINATION OF A VACANCY
2 ON THE GOVERNING BOARD, THE GOVERNING BOARD, BY MAJORITY VOTE AT A REGULAR OR
3 SPECIAL MEETING CALLED FOR THIS PURPOSE, SHALL APPOINT A MEMBER TO FILL THE
4 VACANCY. THE PERSON APPOINTED PURSUANT TO THIS SUBSECTION SHALL SERVE THE
5 REMAINDER OF THE UNEXPIRED PORTION OF THE TERM OF THE FORMER MEMBER.

6 ~~J.~~ K. For the purposes of this section:

7 1. "Household of residence" means the place of abode during applicable
8 time periods or the residence address used by an individual for voter
9 registration or property tax purposes.

10 2. "Immediate family" means individuals who are married to each other
11 and any children of those individuals.

12 Sec. 3. Section 15-422, Arizona Revised Statutes, is amended to read:

13 15-422. Nominating petitions; ballots

14 A. Nominating petitions shall be filed with the county school
15 superintendent as prescribed by title 16, chapter 3. Nominating petitions
16 shall be signed by a number of qualified electors of the district as provided
17 in section 16-322. ~~Nominating petitions for persons seeking to fill a~~
18 ~~vacancy on a governing board shall be designated as provided in section~~
19 ~~16-314.~~

20 B. The county school superintendent may cause separate ballots to be
21 prepared, or such school district candidates' names may be included as a part
22 of the regular ballot. In any event the names of all persons whose petitions
23 have been filed shall appear on a ballot, without partisan or other
24 designation except the title of the office.

25 Sec. 4. Section 15-424, Arizona Revised Statutes, is amended to read:

26 15-424. Election of governing board members; terms; statement
27 of contributions and expenditures

28 A. A regular election shall be held for each school district at the
29 time and place, and in the manner, of general elections as provided in
30 title 16.

31 B. Except as provided in subsection C of this section and sections
32 15-429 and 15-430, the term of office for each member shall be four years
33 from January 1 next following the member's election.

34 C. At the first general election held for a newly formed district,
35 three members shall be elected. The candidate receiving the highest number
36 of votes shall be elected to a four-year term, and the candidates having the
37 second and third highest number of votes shall be elected to two-year terms.
38 A district increasing its governing board to five members shall elect at the
39 next general election members in the following manner:

40 1. If one of the previous three offices is to be filled, the three
41 candidates receiving the highest, the second highest and the third highest
42 number of votes shall be elected to four-year terms.

43 2. If two of the previous three offices are to be filled, the
44 candidates receiving the highest, the second highest and the third highest
45 number of votes shall be elected to four-year terms. The candidate receiving

1 the fourth highest number of votes shall be elected to a two-year term.
2 Thereafter all such offices shall have four-year terms.

3 D. If only one person files ~~or no person files~~ a nominating petition
4 or nomination paper for a write-in candidate for an election to fill a
5 district office, the board of supervisors no earlier than seventy-five days
6 before the election may cancel the election for the position and appoint the
7 person who filed the nominating petition or nomination paper to fill the
8 position. If no person files a nominating petition or nomination paper for
9 an election to fill a district office, the board of supervisors no earlier
10 than seventy-five days before the election may cancel the election for that
11 office and that office is deemed vacant and shall be filled as provided in
12 section ~~15-302~~ 15-421. A person who is appointed pursuant to this subsection
13 is fully vested with the powers and duties of the office as if elected to
14 that office.

15 E. If two or more candidates receive an equal number of votes for the
16 same office, and a higher number than any other candidate for that office,
17 whether ~~upon~~ ON the tally by the school election board or canvass of returns
18 by the board of supervisors, or ~~upon~~ ON recount by a court, the officer or
19 board whose duty it is to declare the result shall determine by lot and in
20 the presence of the candidates which candidate shall be declared elected.

21 F. Position of the names of candidates for each office shall be
22 rotated so that each candidate occupies each position on the ballot an equal
23 number of times, insofar as is possible, for each ballot style. ~~For~~
24 ~~candidates seeking election to fill a vacancy on the governing board, the~~
25 ~~ballot shall be designated as provided in section 16-502.~~

26 G. This section does not require that a school election at which no
27 member is to be elected be held on a general election day.

28 H. All candidates for the office of school district governing board
29 member shall file with the county school superintendent a statement of
30 contributions and expenditures as provided in section 16-913.

31 Sec. 5. Section 15-502, Arizona Revised Statutes, is amended to read:
32 15-502. Employment of school district personnel; payment of
33 wages of discharged employee

34 A. The governing board at any time may employ and fix the salaries and
35 benefits of employees necessary for the succeeding year. The contracts of
36 all certificated employees shall be in writing, and all employees shall be
37 employed subject to section 38-481. The governing board may obtain the
38 services of any employee, including teachers, substitute teachers and
39 administrators, by contracting with a private entity that employs personnel
40 required by the school district.

41 B. A teacher shall not be employed if the teacher has not received a
42 certificate for teaching granted by the proper authorities. If a teacher has
43 filed an application and completed all of the requirements for a certificate
44 but time does not allow a teacher to receive a certificate before the
45 commencement of employment, the conditional certificate shall serve as a

1 certificate for the payment of wages, provided that the teacher files the
2 conditional certificate with the county school superintendent and the
3 certificate is issued within three months of the date of commencing
4 employment. In order to be paid wages beyond the three-month period
5 prescribed in this subsection, the teacher shall file the certificate with
6 the county school superintendent. Any contract issued to a teacher who has
7 completed certificate requirements but has not received a certificate shall
8 be specifically contingent ~~upon~~ ON receipt of such a certificate. The
9 governing board of a school district that is subject to section 15-914.01
10 shall adhere to the duties described in section 15-302, subsection A,
11 paragraph ~~9~~ 8 for purposes of this subsection.

12 C. No dependent, as defined in section 43-1001, of a governing board
13 member may be employed in the school district in which the person to whom
14 such dependent is so related is a governing board member, except by consent
15 of the board.

16 D. The governing board may employ certificated teachers under contract
17 as part-time classroom teachers. Notwithstanding any other statute, a
18 certificated teacher who has been employed by the school district for more
19 than the major portion of three consecutive school years does not lose the
20 entitlement to the procedures prescribed in sections 15-538.01, 15-539
21 through 15-544 and 15-547 if the teacher is employed under contract on a
22 part-time basis for at least forty per cent time. For the purposes of this
23 subsection, "forty per cent time" means employed for at least forty per cent
24 of the school day required of full-time teachers of the same grade level or
25 for at least forty per cent of the class load assigned to full-time teachers
26 of the same grade level, as determined by the governing board.

27 E. The governing board may employ a business manager who has expertise
28 in finance. For the purposes of this subsection, "expertise in finance"
29 means one or more of the following:

30 1. A baccalaureate degree in accounting, finance, school finance or
31 public finance.

32 2. A graduate degree in accounting, finance, school finance or public
33 finance.

34 3. Other finance training or finance experience that the governing
35 board determines is sufficient to qualify the person to administer the
36 business operations of the school district.

37 F. Notwithstanding sections 23-351 and 23-353, if an employee is
38 discharged from the service of a school district, the school district shall
39 pay the wages due to the employee within ten calendar days from the date of
40 discharge.

41 G. Each school district shall establish policies and procedures to
42 provide teachers with personal liability insurance.

43 H. Notwithstanding any other law, a school district shall not adopt
44 policies that provide employment retention priority for teachers based on
45 tenure or seniority.