

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1363

AN ACT

AMENDING SECTIONS 16-222, 16-230, 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
46 be held no more than forty-nine days after the declaration of the vacancy

1 unless a regularly scheduled general election or previously scheduled special
2 general election is held within seventy-five days after the declaration of
3 the vacancy.

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

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

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

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

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

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

1 under this chapter appoints the officer with whom the candidate files the
2 nomination paper and petitions as the person's agent to receive service of
3 process. Process in an action challenging a nomination petition shall be
4 served immediately after the action is filed and in no event more than
5 twenty-four hours after filing the action, excluding Saturdays, Sundays and
6 other legal holidays. Immediately on receipt of process served on the
7 officer as agent for a person filing a nomination petition, the officer shall
8 mail the process to the person and shall notify the person by telephone of
9 the filing of the action.

10 E. Notwithstanding the system used pursuant to section 16-163,
11 subsection D, the most current version of the general county register at the
12 time of filing of a court action challenging a nomination petition shall
13 constitute the official record to be used to determine on a prima facie basis
14 by the challenger that the signer of a petition was not registered to vote at
15 the residence address given, or at the address on the general county register
16 if a mailing address was given, on the date of signing of the petition. This
17 subsection does not preclude the challenged candidate from introducing into
18 evidence a certified copy of the registration form of any signer of a
19 petition dated on or before the date of the signing of the petition if the
20 registration form is in the possession of the county recorder but has not yet
21 been filed in the general county register.

22 F. FOR ANY CHALLENGE OF A CANDIDATE'S NOMINATING PETITION FOR WHICH
23 THE COUNTY RECORDER OR OFFICER IN CHARGE OF ELECTIONS IS REQUIRED TO CONDUCT
24 SIGNATURE VERIFICATION AND TO WHICH THE COUNTY RECORDER OR OFFICER IN CHARGE
25 OF ELECTIONS IS A PARTY, THE COURT MAY AWARD TO THE COUNTY RECORDER OR
26 OFFICER IN CHARGE OF ELECTIONS THE REASONABLE EXPENSES INCURRED IN SIGNATURE
27 VERIFICATION.

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

33 Sec. 5. Section 16-571, Arizona Revised Statutes, is amended to read:
34 16-571. Poll lists to be kept by election clerk; posting

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

39 B. In precincts in which electronic poll book systems are not used,
40 the poll list as prescribed in section 16-516 shall be written on one side
41 only, and ~~the TRIPLICATE copies thereof shall be legible triplicate copies~~
42 MAY BE PROVIDED. Immediately upon the completion of each page of the poll
43 list AND IF COPIES ARE AVAILABLE, one copy shall, upon request, be given to a
44 representative designated by each major political party. In an election with
45 nonpartisan candidates or ballot issues, the officer in charge of the
46 jurisdiction that is conducting the election may designate who is to receive

1 copies of the poll lists. For the purposes of this subsection, "major
2 political party" means the two parties receiving the highest number of votes
3 for governor or presidential electors at the last election.

4 C. In precincts in which electronic poll book systems are used, at
5 least one list of persons voting shall be available by printed or electronic
6 media. The list shall be in substantially the same format as prescribed in
7 section 16-516 and on request shall be given to a representative designated
8 by each major political party. The information contained in the list also
9 may be provided electronically to a representative designated by each major
10 political party by way of a secure electronic file transmittal format as
11 prescribed by the secretary of state.

12 Sec. 6. Section 41-1202, Arizona Revised Statutes, is amended to read:
13 41-1202. Vacancy in legislature; precinct committeemen;
14 appointment; definition

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

20 1. The secretary of state shall notify the state party chairman of the
21 appropriate political party of the vacancy. Within three business days after
22 notification of the vacancy by the secretary of state, the state party
23 chairman of the appropriate political party or the chairman's designee shall
24 give written notice of the meeting to fill the vacancy to all elected
25 precinct committeemen of the appropriate political party from precincts that
26 are in the legislative district and that are in the county in which the
27 vacancy occurred.

28 2. Those elected precinct committeemen shall nominate, within
29 twenty-one days after notification of the vacancy by the secretary of state
30 if the legislature is not in regular session or within five days if the
31 legislature is in regular session and by a majority vote, three qualified
32 electors to fill the vacancy who meet the requirements for service in the
33 legislature and who belong to the same political party and reside at the time
34 of nomination in the same district and county as the person elected to or
35 appointed to the office immediately before the vacancy.

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

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

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

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

4 4. The state party chairman of the appropriate political party shall
5 forward the names of the three persons named pursuant to paragraph 2 of this
6 subsection to the board of supervisors of the county of residence of the
7 person elected or appointed to the office immediately before the vacancy
8 occurred. The board of supervisors shall appoint a person from the three
9 nominees submitted.

10 5. If the elected precinct committeemen of the appropriate political
11 party fail to fill the vacancy within twenty-one days if the legislature is
12 not in regular session or within five days if the legislature is in regular
13 session, as provided in subsection A, the state party chairman shall notify
14 the board of supervisors of the appropriate county and the board of
15 supervisors shall fill the vacancy as provided in subsection B. The time
16 frame for appointing a citizens panel shall run from receipt of notification
17 from the state party chairman.

18 B. If the vacant legislative seat was represented by a political party
19 that is organized pursuant to title 16, chapter 5, article 2 and that has
20 fewer than thirty elected committeemen who are from precincts that are in the
21 legislative district and that are in the county in which the vacancy occurred
22 or if the vacant legislative seat is not represented by a political party
23 that is organized pursuant to title 16, chapter 5, article 2, the following
24 apply:

25 1. The board of supervisors of the county of residence of the person
26 elected to or appointed to the office immediately before the vacancy shall
27 appoint within three business days after a vacancy occurs a citizens panel to
28 submit to the board within seven business days the names of three qualified
29 electors who are members of the appropriate political party and who are
30 residents of the legislative district and county in which the vacancy
31 occurred to fill the vacancy. If the person elected to or appointed to the
32 office immediately before the vacancy was a registered independent, the
33 qualified electors shall be registered as independent.

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

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