

REFERENCE TITLE: elections; revisions

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

HB 2527

Introduced by
Representative Ugenti

AN ACT

AMENDING SECTIONS 9-231, 16-411 AND 33-1261, ARIZONA REVISED STATUTES;
RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-231, Arizona Revised Statutes, is amended to
3 read:

4 9-231. Common council; date of election

5 A. The corporate powers of a town incorporated under the provisions of
6 section 9-101 shall be vested in a common council. The first common council
7 shall be appointed by the board of supervisors, ~~upon~~ ON declaring the town
8 incorporated, and the members shall continue in office until their successors
9 are elected and qualified. The successors shall be elected by qualified
10 electors residing in the town at an election held for that purpose on the
11 third Tuesday in May following, ~~and on the third Tuesday in May~~ each two
12 years thereafter, ~~unless and until the date of such election is changed~~
13 ~~pursuant to the provisions of subsection C of this section~~ PURSUANT TO
14 SECTION 16-204.

15 B. The common council of every town shall consist of five members if
16 the population is fifteen hundred persons or less, or seven members if the
17 population exceeds fifteen hundred persons at the time of incorporation. If
18 thereafter the population of ~~such~~ THE town exceeds fifteen hundred persons as
19 determined by the latest official United States census, the council may pass
20 an ordinance increasing the membership to seven, with the additional two
21 members to be elected at the first election subsequent to the passage of the
22 ordinance.

23 ~~C. A city or town may only hold a general election on a date~~
24 ~~prescribed by section 16-204.~~

25 Sec. 2. Section 16-411, Arizona Revised Statutes, is amended to read:

26 16-411. Designation of election precincts and polling places;
27 voting centers; electioneering; wait times

28 A. Except as prescribed by subsection J of this section, the board of
29 supervisors of each county, on or before December 1 of each year preceding
30 the year of a general election, by an order, shall establish a convenient
31 number of election precincts in the county and define the boundaries of the
32 precincts. Such election precinct boundaries shall be so established as
33 included within election districts prescribed by law for elected officers of
34 the state and its political subdivisions including community college district
35 precincts, except those elected officers provided for in titles 30 and 48.

36 B. Not less than twenty days before a general or primary election, and
37 at least ten days before a special election, the board shall designate one
38 polling place within each precinct where the election shall be held, except
39 that:

40 1. On a specific finding of the board, included in the order or
41 resolution designating polling places pursuant to this subsection, that no
42 suitable polling place is available within a precinct, a polling place for
43 such precinct may be designated within an adjacent precinct.

44 2. Adjacent precincts may be combined if boundaries so established are
45 included in election districts prescribed by law for state elected officials

1 and political subdivisions including community college districts but not
2 including elected officials prescribed by titles 30 and 48. The officer in
3 charge of elections may also split a precinct for administrative purposes.
4 Any such polling places shall be listed in separate sections of the order or
5 resolution.

6 3. On a specific finding of the board that the number of persons who
7 are listed as permanent early voters pursuant to section 16-544 is likely to
8 substantially reduce the number of voters appearing at one or more specific
9 polling places at that election, adjacent precincts may be consolidated by
10 combining polling places and precinct boards for that election. The board of
11 supervisors shall ensure that a reasonable and adequate number of polling
12 places will be designated for that election. Any consolidated polling places
13 shall be listed in separate sections of the order or resolution of the board.

14 4. On a specific resolution of the board, the board may authorize the
15 use of voting centers in place of or in addition to specifically designated
16 polling places. A voting center shall allow any voter in that county to
17 receive the appropriate ballot for that voter on election day and lawfully
18 cast the ballot. Voting centers may be established in coordination and
19 consultation with the county recorder, at other county offices or at other
20 locations in the county deemed appropriate.

21 C. If the board fails to designate the place for holding the election,
22 or if it cannot be held at or about the place designated, the justice of the
23 peace in the precinct, two days before the election, by an order, copies of
24 which the justice of the peace shall immediately post in three public places
25 in the precinct, shall designate the place within the precinct for holding
26 the election. If there is no justice of the peace in the precinct, or if the
27 justice of the peace fails to do so, the election board of the precinct shall
28 designate and give notice of the place within the precinct of holding the
29 election. For any election in which there are no candidates for elected
30 office appearing on the ballot, the board may consolidate polling places and
31 precinct boards and may consolidate the tabulation of results for that
32 election if all of the following apply:

33 1. All affected voters are notified by mail of the change at least
34 thirty-three days before the election.

35 2. Notice of the change in polling places includes notice of the new
36 voting location, notice of the hours for voting on election day and notice of
37 the telephone number to call for voter assistance.

38 3. All affected voters receive information on early voting that
39 includes the application used to request an early voting ballot.

40 D. The board is not required to designate a polling place for special
41 district mail ballot elections held pursuant to article 8.1 of this chapter,
42 but the board may designate one or more sites for voters to deposit marked
43 ballots until 7:00 p.m. on the day of the election.

44 E. Except as provided in subsection F of this section, a public school
45 shall provide sufficient space for use as a polling place for any city,

1 county or state election when requested by the officer in charge of
2 elections.

3 F. The principal of the school may deny a request to provide space for
4 use as a polling place for any city, county or state election if, within two
5 weeks after a request has been made, the principal provides a written
6 statement indicating a reason the election cannot be held in the school,
7 including any of the following:

- 8 1. Space is not available at the school.
- 9 2. The safety or welfare of the children would be jeopardized.

10 G. The board shall make available to the public as a public record a
11 list of the polling places for all precincts in which the election is to be
12 held including identification of polling place changes that were submitted to
13 the United States department of justice for approval.

14 H. ~~Except in the case of an emergency,~~ Any facility that is used as a
15 polling place on election day or that is used as an early voting site during
16 the period of early voting shall allow persons to electioneer and engage in
17 other political activity outside of the seventy-five foot limit prescribed by
18 section 16-515 in public areas and parking lots used by voters. This
19 subsection shall not be construed to permit the temporary or permanent
20 construction of structures in public areas and parking lots or the blocking
21 or other impairment of access to parking spaces for voters. ~~The county
22 recorder shall post on its website at least two weeks before election day a
23 list of those polling places in which emergency conditions prevent
24 electioneering and shall specify the reason the emergency exemption was
25 granted. If the polling place is not on the website list of polling places
26 with emergency conditions, electioneering and other political activity shall
27 be permitted outside of the seventy five foot limit. If an emergency arises
28 after the county recorder's initial website posting, the county recorder
29 shall update the website as soon as is practicable to include any new polling
30 places, shall highlight the polling place location on the website and shall
31 specify the reason the emergency exemption was granted.~~

32 I. The secretary of state shall provide through the instructions and
33 procedures manual adopted pursuant to section 16-452 the maximum allowable
34 wait time for any election that is subject to section 16-204 and provide for
35 a method to reduce voter wait time at the polls in the primary and general
36 elections. The method shall consider at least all of the following for
37 primary and general elections in each precinct:

- 38 1. The number of ballots voted in the prior primary and general
39 elections.
- 40 2. The number of registered voters who voted early in the prior
41 primary and general elections.
- 42 3. The number of registered voters and the number of registered voters
43 who cast an early ballot for the current primary or general election.
- 44 4. The number of election board members and clerks and the number of
45 rosters that will reduce voter wait time at the polls.

1 J. The board of supervisors of a county shall not change precinct
2 lines during the period after July 31, 2008 and before January 1, 2011. The
3 board of supervisors may subdivide an election precinct for administrative
4 purposes or may provide for more than one polling place within the boundaries
5 of the election precincts established for use in voting in elections held
6 after July 31, 2008 and before January 1, 2011. In providing for multiple
7 polling places within a precinct, the board of supervisors shall consider the
8 particular population characteristics of each precinct in order to provide
9 the voters the most reasonable access to the polls possible.

10 Sec. 3. Section 33-1261, Arizona Revised Statutes, is amended to read:

11 33-1261. Flag display; for sale, rent or lease signs; political
12 signs and activities; applicability

13 A. Notwithstanding any provision in the condominium documents, an
14 association shall not prohibit the outdoor display of any of the following:

15 1. The American flag or an official or replica of a flag of the United
16 States army, navy, air force, marine corps or coast guard by a unit owner on
17 that unit owner's property if the American flag or military flag is displayed
18 in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810;
19 4 United States Code sections 4 through 10).

20 2. The POW/MIA flag.

21 3. The Arizona state flag.

22 4. An Arizona Indian nations flag.

23 5. The Gadsden flag.

24 B. The association shall adopt reasonable rules and regulations
25 regarding the placement and manner of display of the American flag, the
26 military flag, the POW/MIA flag, the Arizona state flag or an Arizona Indian
27 nations flag. The association rules may regulate the location and size of
28 flagpoles but shall not prohibit the installation of a flagpole.

29 C. Notwithstanding any provision in the condominium documents, an
30 association shall not prohibit or charge a fee for the use of, the placement
31 of or the indoor or outdoor display of a for sale, for rent or for lease sign
32 and a sign rider by a unit owner on that owner's property in any combination,
33 including a sign that indicates the unit owner is offering the property for
34 sale by owner. The size of a sign offering a property for sale, for rent or
35 for lease shall be in conformance with the industry standard size sign, which
36 shall not exceed eighteen by twenty-four inches, and the industry standard
37 size sign rider, which shall not exceed six by twenty-four inches. This
38 subsection applies only to a commercially produced sign and an association
39 may prohibit the use of signs that are not commercially produced. With
40 respect to real estate for sale, for rent or for lease in the condominium, an
41 association shall not prohibit in any way other than as is specifically
42 authorized by this section or otherwise regulate any of the following:

43 1. Temporary open house signs or a unit owner's for sale sign. The
44 association shall not require the use of particular signs indicating an open
45 house or real property for sale and may not further regulate the use of

1 temporary open house or for sale signs that are industry standard size and
2 that are owned or used by the seller or the seller's agent.

3 2. Open house hours. The association may not limit the hours for an
4 open house for real estate that is for sale in the condominium, except that
5 the association may prohibit an open house being held before 8:00 a.m. or
6 after 6:00 p.m. and may prohibit open house signs on the common elements of
7 the condominium.

8 3. An owner's or an owner's agent's for rent or for lease sign unless
9 an association's documents prohibit or restrict leasing of a unit or units.
10 An association shall not further regulate a for rent or for lease sign or
11 require the use of a particular for rent or for lease sign other than the for
12 rent or for lease sign shall not be any larger than the industry standard
13 size sign of eighteen by twenty-four inches and on or in the unit owner's
14 property. If rental or leasing of a unit is allowed, the association may
15 prohibit an open house for rental or leasing being held before 8:00 a.m. or
16 after 6:00 p.m.

17 D. Notwithstanding any provision in the condominium documents, an
18 association shall not prohibit door to door political activity, including
19 solicitations of support or opposition regarding candidates or ballot issues,
20 and shall not prohibit the circulation of political petitions, including
21 candidate nomination petitions or petitions in support of or opposition to an
22 initiative, referendum or recall or other political issue on property
23 normally open to visitors within the association, except that an association
24 may do the following:

25 1. Restrict or prohibit door to door political activity regarding
26 candidates or ballot issues from sunset to sunrise.

27 2. Require the prominent display of an identification tag for each
28 person engaged in the activity, along with the prominent identification of
29 the candidate or ballot issue that is the subject of the support or
30 opposition.

31 E. NOTWITHSTANDING ANY PROVISION IN THE CONDOMINIUM DOCUMENTS, AN
32 ASSOCIATION SHALL NOT PROHIBIT THE INDOOR OR OUTDOOR DISPLAY OF A POLITICAL
33 SIGN BY A UNIT OWNER ON THAT UNIT OWNER'S PROPERTY, INCLUDING ANY LIMITED
34 COMMON ELEMENTS FOR THAT UNIT, EXCEPT THAT AN ASSOCIATION MAY PROHIBIT THE
35 DISPLAY OF POLITICAL SIGNS EARLIER THAN SEVENTY-ONE DAYS BEFORE THE DAY OF AN
36 ELECTION AND LATER THAN THREE DAYS AFTER AN ELECTION DAY. AN ASSOCIATION MAY
37 REGULATE THE SIZE AND NUMBER OF POLITICAL SIGNS THAT MAY BE PLACED ON A UNIT
38 OWNER'S PROPERTY IF THE ASSOCIATION'S REGULATION IS NO MORE RESTRICTIVE THAN
39 ANY APPLICABLE CITY, TOWN OR COUNTY ORDINANCE THAT REGULATES THE SIZE AND
40 NUMBER OF POLITICAL SIGNS ON RESIDENTIAL PROPERTY. IF THE CITY, TOWN OR
41 COUNTY IN WHICH THE PROPERTY IS LOCATED DOES NOT REGULATE THE SIZE AND NUMBER
42 OF POLITICAL SIGNS ON RESIDENTIAL PROPERTY, THE ASSOCIATION SHALL NOT LIMIT
43 THE NUMBER OF POLITICAL SIGNS, EXCEPT THAT THE MAXIMUM AGGREGATE TOTAL
44 DIMENSIONS OF ALL POLITICAL SIGNS ON A UNIT OWNER'S PROPERTY SHALL NOT EXCEED
45 NINE SQUARE FEET. An association shall not make any regulations regarding

1 the number of candidates supported, the number of public officers supported
2 or opposed in a recall or the number of propositions supported or opposed on
3 a political sign. FOR THE PURPOSES OF THIS SUBSECTION, "POLITICAL SIGN"
4 MEANS A SIGN THAT ATTEMPTS TO INFLUENCE THE OUTCOME OF AN ELECTION, INCLUDING
5 SUPPORTING OR OPPOSING THE RECALL OF A PUBLIC OFFICER OR SUPPORTING OR
6 OPPOSING THE CIRCULATION OF A PETITION FOR A BALLOT MEASURE, QUESTION OR
7 PROPOSITION OR THE RECALL OF A PUBLIC OFFICER.

8 F. An association shall not require political signs to be commercially
9 produced or professionally manufactured or prohibit the utilization of both
10 sides of a political sign.

11 G. A condominium is not required to comply with subsection D of this
12 section if the condominium restricts vehicular or pedestrian access to the
13 condominium. Nothing in this section requires a condominium to make its
14 common elements other than roadways and sidewalks that are normally open to
15 visitors available for the circulation of political petitions to anyone who
16 is not an owner or resident of the community.

17 H. An association or managing agent that violates subsection C of this
18 section forfeits and extinguishes the lien rights authorized under section
19 33-1256 against that unit for a period of six consecutive months from the
20 date of the violation.

21 I. This section does not apply to timeshare plans or associations that
22 are subject to chapter 20 of this title.

23 Sec. 4. Implementation of consolidated elections

24 Notwithstanding any other law, in order to comply with the
25 consolidation of election dates prescribed in Laws 2012, chapter 353, a city
26 or town may shorten or lengthen the term of office for its elected officials.