

House Engrossed

elections; municipal vacancies; primary

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HOUSE BILL 2080

AN ACT

AMENDING SECTIONS 9-235 AND 9-821.01, ARIZONA REVISED STATUTES; RELATING
TO CITY AND TOWN ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-235, Arizona Revised Statutes, is amended to
3 read:

4 9-235. Vacancies in council

5 A. The council shall fill a vacancy that may occur by appointment
6 until the next regularly scheduled council election if the vacancy occurs
7 more than thirty days before the nomination petition deadline, otherwise
8 the appointment is for the unexpired term. **IF THE CITY OR TOWN BY
9 ORDINANCE PROVIDES THAT AT THE PRIMARY ELECTION ANY CANDIDATE FOR THE
10 OFFICE OF MAYOR OR CITY COUNCIL WHO RECEIVES A MAJORITY OF ALL VOTES CAST
11 AT THAT ELECTION FOR THAT OFFICE IS DECLARED ELECTED TO THE OFFICE AND A
12 CANDIDATE TO FILL THE VACANCY IN THAT OFFICE RECEIVES A MAJORITY OF ALL
13 VOTES CAST FOR THAT OFFICE AT THE PRIMARY ELECTION, SECTION 9-821.01,
14 SUBSECTION D APPLIES.** This subsection does not apply to a charter city.

15 B. The member appointed shall meet the qualifications established
16 in section 9-232.

17 Sec. 2. Section 9-821.01, Arizona Revised Statutes, is amended to
18 read:

19 9-821.01. Declaration of statewide concern; nonpartisan city
20 and town elections; districts; procedure

21 A. Arizona courts have recognized that the Constitution of Arizona
22 requires the legislature's involvement in issues relating to elections
23 conducted by charter cities, including initiative and referendum
24 elections, the method of elections other than by ballot, laws relating to
25 primary elections, voter registration laws to prevent abuse and fraud and
26 campaign finance laws. The legislature finds that the conduct of
27 elections described in this section is a matter of statewide concern.

28 B. Notwithstanding any other law, a city or town shall not hold any
29 election on candidates for which there is any indication on the ballot of
30 the source of the candidacy or of the support of the candidate.

31 C. Notwithstanding any other law, for any city or town that
32 provides for election of city or town council members by district, ward,
33 precinct or other geographical designation, only those voters who are
34 qualified electors of the district, ward, precinct or other geographic
35 designation are eligible to vote for that council member candidate in the
36 city or town's primary, general, runoff or other election.

37 D. Notwithstanding any other law or any charter provision, a city
38 or town may by ordinance provide that at the primary election any
39 candidate for the office of mayor or city council who receives a majority
40 of all votes cast at that election for that office ~~is~~ **SHALL BE** declared
41 elected to the office for which the person is a candidate, effective as of
42 the date of the general election, and a further election may not be held
43 as to such candidate, ~~—~~ **EXCEPT THAT IF THE PERSON HOLDING THE OFFICE OF
44 MAYOR OR CITY COUNCIL AT THE TIME OF THE PRIMARY ELECTION IS HOLDING THAT
45 OFFICE BY APPOINTMENT AS PRESCRIBED BY SECTION 9-235, THE FOLLOWING APPLY:**

1 1. A CANDIDATE FOR THE REMAINDER OF THAT TERM IN OFFICE WHO
2 RECEIVES A MAJORITY OF ALL VOTES CAST AT THE PRIMARY ELECTION BOTH:

3 (a) SHALL BE DECLARED ELECTED AFTER THE CANVASS AND CERTIFICATION
4 OF THE RESULTS OF THAT PRIMARY ELECTION AND ON TAKING THE OATH OF OFFICE.

5 (b) SHALL BE SEATED IN ACCORDANCE WITH SUBSECTION E OF THIS
6 SECTION.

7 2. A CANDIDATE FOR A NEW TERM IN THAT OFFICE WHO RECEIVES A
8 MAJORITY OF ALL VOTES CAST AT THE PRIMARY ELECTION BOTH:

9 (a) SHALL BE DECLARED ELECTED TO THE NEW TERM OF OFFICE, EFFECTIVE
10 AFTER THE CANVASS AND CERTIFICATION OF THE RESULTS OF THAT PRIMARY
11 ELECTION AND ON TAKING THE OATH OF OFFICE.

12 (b) MAY BE SEATED TO COMPLETE THE REMAINDER OF EXISTING TERM IN
13 ACCORDANCE WITH SUBSECTION E OF THIS SECTION.

14 E. IF MORE THAN ONE CANDIDATE RECEIVES A MAJORITY OF ALL VOTES CAST
15 AT THE PRIMARY FOR AN OFFICE THAT IS CURRENTLY BEING SERVED BY A PERSON
16 WHO IS APPOINTED AS PROVIDED IN SUBSECTION D OF THIS SECTION, THE ORDER OF
17 SEATING THE CANDIDATES SHALL BE DETERMINED BY THE HIGHEST NUMBER OF VOTES.

18 F. For the purposes of ~~this~~ subsection D OF THIS SECTION, the
19 majority of votes cast is determined by:

20 1. Calculating the total number of actual votes cast for all
21 candidates for an office whose names were lawfully on the ballot for that
22 office.

23 2. Dividing the sum reached pursuant to paragraph 1 of this
24 subsection by the number of seats to be filled for the office.

25 3. Dividing the number reached pursuant to paragraph 2 of this
26 subsection by two and rounding that number to the highest whole number.

27 ~~F.~~ G. If more candidates receive a majority of votes cast than
28 there are seats to be filled for the office pursuant to subsection D of
29 this section, from among those candidates who receive a majority of votes
30 cast, the candidates who receive the highest number of votes equal to the
31 number of seats to be filled for the office ~~is~~ SHALL BE declared elected
32 to that office.

33 ~~F.~~ H. If at the primary election no candidate receives the
34 majority of the votes cast or the number of seats to be filled for the
35 office is more than the number of candidates who receive a majority of
36 votes cast, of the candidates who did not receive a majority of votes
37 cast, the number of candidates who advance to the general or runoff
38 election ~~is~~ SHALL BE equal in number to twice the number of seats to be
39 filled for the office and the candidates who received the highest number
40 of votes for the office ~~are~~ SHALL BE the only candidates at the general or
41 runoff election. If more than one candidate received an equal number of
42 votes and that number was the highest number of votes for the office, then
43 all candidates receiving the equal number of votes ~~are~~ SHALL BE candidates
44 at the general or runoff election. The candidates equal in number to the
45 seats to be filled for the office who receive the highest number of votes

1 at the general or runoff election ~~is~~ SHALL BE declared elected to that
2 office. If two or more candidates receive an equal number of votes cast
3 for the same office, and a higher number than any other candidate, the
4 candidate who shall be declared elected ~~is~~ SHALL BE determined by lot in
5 the presence of the candidates. A write-in candidate may not advance to
6 the general or runoff election if the write-in candidate did not receive a
7 number of votes equivalent to at least the same number of signatures
8 required by section 16-322 for nominating petitions for the same office.

9 ~~G.~~ I. In addition to subsection D of this section, any town with a
10 population of five thousand persons or less may by majority vote of the
11 qualified electors of the town voting on the question provide that at the
12 primary election those candidates receiving the highest number of votes
13 for the offices to be filled ~~are~~ SHALL BE declared elected to the office,
14 and a further election may not be held if at least three-fifths of the
15 seats are filled by persons receiving a majority of the votes cast as
16 provided in subsection D of this section.