

REFERENCE TITLE: elections; municipal vacancies; primary

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

# HB 2080

Introduced by  
Representatives Hendrix: Parker B

## 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 TO FILL THE VACANCY WHO RECEIVES A MAJORITY OF ALL  
2 VOTES CAST AT THAT PRIMARY ELECTION FOR THAT OFFICE SHALL BE DECLARED  
3 ELECTED TO THAT OFFICE, EFFECTIVE AFTER THE CANVASS AND CERTIFICATION OF  
4 THE RESULTS OF THAT PRIMARY ELECTION AND ON TAKING THE OATH OF OFFICE.

5           2. THE APPOINTED MEMBER'S TERM OF OFFICE ENDS WHEN THE ELECTED  
6 CANDIDATE TAKES THE OATH OF OFFICE.

7           E. For the purposes of ~~this~~ subsection D OF THIS SECTION, the  
8 majority of votes cast is determined by:

9           1. Calculating the total number of actual votes cast for all  
10 candidates for an office whose names were lawfully on the ballot for that  
11 office.

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

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

16           ~~F.~~ F. If more candidates receive a majority of votes cast than  
17 there are seats to be filled for the office pursuant to subsection D of  
18 this section, from among those candidates who receive a majority of votes  
19 cast, the candidates who receive the highest number of votes equal to the  
20 number of seats to be filled for the office ~~is~~ SHALL BE declared elected  
21 to that office.

22           ~~F.~~ G. If at the primary election no candidate receives the  
23 majority of the votes cast or the number of seats to be filled for the  
24 office is more than the number of candidates who receive a majority of  
25 votes cast, of the candidates who did not receive a majority of votes  
26 cast, the number of candidates who advance to the general or runoff  
27 election ~~is~~ SHALL BE equal in number to twice the number of seats to be  
28 filled for the office and the candidates who received the highest number  
29 of votes for the office ~~are~~ SHALL BE the only candidates at the general or  
30 runoff election. If more than one candidate received an equal number of  
31 votes and that number was the highest number of votes for the office, then  
32 all candidates receiving the equal number of votes ~~are~~ SHALL BE candidates  
33 at the general or runoff election. The candidates equal in number to the  
34 seats to be filled for the office who receive the highest number of votes  
35 at the general or runoff election ~~is~~ SHALL BE declared elected to that  
36 office. If two or more candidates receive an equal number of votes cast  
37 for the same office, and a higher number than any other candidate, the  
38 candidate who shall be declared elected ~~is~~ SHALL BE determined by lot in  
39 the presence of the candidates. A write-in candidate may not advance to  
40 the general or runoff election if the write-in candidate did not receive a  
41 number of votes equivalent to at least the same number of signatures  
42 required by section 16-322 for nominating petitions for the same office.

1           ~~G.~~ H. In addition to subsection D of this section, any town with a  
2 population of five thousand persons or less may by majority vote of the  
3 qualified electors of the town voting on the question provide that at the  
4 primary election those candidates receiving the highest number of votes  
5 for the offices to be filled ~~are~~ SHALL BE declared elected to the office,  
6 and a further election may not be held if at least three-fifths of the  
7 seats are filled by persons receiving a majority of the votes cast as  
8 provided in subsection D of this section.