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14 ARIZONA SUPERIOR COURT

15 MARICOPA COUNTY

16 STEVE GALLARDO, an individual; LYDIA GUZMAN,
an individual; MARCUS LARA, an individual; ROSE
17 MARIE DURAN LOPEZ, an individual; RANDOLPH
LUMM, an individual; and MARTIN QUEZADA, an
18 individual;

19 Plaintiffs,

20 v.

21 STATE OF ARIZONA, a body politic; HELEN
PURCELL, in her official capacity as Maricopa County
22 Recorder; KAREN OSBORNE, in her official capacity as
Maricopa County Director of Elections; KEN
23 BENNETT, in his official capacity as Arizona Secretary
of State; MARICOPA COUNTY BOARD OF
24 SUPERVISORS; and DENNY BARNEY, STEVE
CHUCRI, ANDY KUNASEK, CLINT L. HICKMAN,
25 and MARY ROSE WILCOX, in their official capacities
as members of the Maricopa County Board of
26 Supervisors,

27 Defendants.
28

No.

**VERIFIED COMPLAINT
FOR SPECIAL ACTION,
DECLARATORY AND
INJUNCTIVE RELIEF**

Introduction

1. On April 8, 2010, Arizona's Forty-ninth Legislature passed House Bill 2261 ("H.B. 2261"). Governor Brewer signed H.B. 2261 into law on April 14, 2010. [H.B. 2261, Ch. 48 of Laws, 49th Leg., 2nd Reg. Sess. (Ariz. 2010), attached as Ex. 1] In part, H.B. 2261 amended A.R.S. § 15-1441, which sets forth the requirements for selection of community college governing board members throughout all of Arizona. Section 1 of H.B. 2261 specifically amended § 15-1441(I) to provide, among other things, two additional community college district governing board members, to be elected at-large, in counties with populations of at least three million (the "Legislation"). Maricopa County is the only Arizona county with a population of at least three million people and the only Arizona county that will have a population of three million, or even close to three million, for at least the next 40 years. [See Ariz. Dep't of Admin., Office of Emp't & Population Statistics, *Arizona State and County Population Projections: 2012 to 2050, Medium Series* (Dec. 7, 2012) ("County Population Projection"), attached as Ex. 2]

2. Plaintiffs bring this Complaint for Special Action and Declaratory Judgment to request this Court to declare that the Legislation violates article 2, section 13 (equal privileges and immunities) and article 4, part 2, section 19(11) and (20) (special legislation) of the Arizona Constitution and to prohibit Defendants from enforcing the Legislation's provision for at-large seats.

Parties

3. Plaintiff Steve Gallardo is an Arizona State Senator with constituents who attend community colleges in the Maricopa County Community College District. He is also Cartwright School District Governing Board President, and a registered voter in Maricopa County. He attended Rio Salado Community College.

4. Plaintiff Lydia Guzman is a registered voter in Maricopa County. Her daughter attended Glendale Community College and her son plans to attend Glendale Community College.

5. Plaintiff Marcus Lara is an educator in Maricopa County and a registered voter in Maricopa County.

1 6. Plaintiff Rose Marie Duran Lopez is a retired educator and registered voter in
2 Maricopa County. She attended Phoenix College, part of the Maricopa County Community
3 College District. She has children and grandchildren who have attended community colleges in
4 Maricopa County. She has also lobbied against tuition increases for community college students
5 in Maricopa County, has served on a bond committee for the Maricopa County Community
6 College District, and has sat on a scholarship committee for the Maricopa Community Colleges
7 Foundation.

8 7. Plaintiff Randolph Lumm is a member of the Maricopa County Community
9 College District Governing Board, and a registered voter in Maricopa County. He is also a former
10 student at a college in the Maricopa County Community College District, and a former board
11 member of the Pendergast Elementary School District.

12 8. Plaintiff Martin Quezada is an Arizona State Representative with constituents who
13 attend community colleges in the Maricopa County Community College District. He is also
14 President of the Pendergast Elementary School District Governing Board and a registered voter in
15 Maricopa County. He is a graduate of Glendale Community College, part of the Maricopa
16 County Community College District, and has taken classes at Phoenix College.

17 9. All of these Plaintiffs are registered voters in Maricopa County and entitled to vote
18 in Governing Board elections. They also have a strong interest in the administration of the
19 Maricopa County Community College District. They will suffer injury because the quality of
20 their current geographically based representation on the Maricopa County Community College
21 District Governing Board will be reduced if they are not granted the relief requested in this
22 special action.

23 10. Defendant State of Arizona is joined to ensure that any adjudication will be
24 binding on all branches, departments, agencies, and political subdivisions of the State.

25 11. Defendant Helen Purcell is Maricopa County Recorder, an office created by the
26 Arizona Constitution. Ariz. Const. art. 12, § 3. Defendant Purcell is named in her official
27 capacity. The Maricopa County Recorder is responsible for conducting elections in Maricopa
28 County.

12. Defendant Karen Osborne is Maricopa County Director of Elections. Defendant Osborne is named in her official capacity.

13. Defendant Ken Bennett is the Arizona Secretary of State (the "Secretary of State"), a public officer of this State, and is named in his official capacity. The Secretary of State is the public officer responsible for conducting statewide elections.

14. Defendant Maricopa County Board of Supervisors ("Board of Supervisors") is the governing body of Maricopa County. Pursuant to A.R.S. § 11-251(3), the Board of Supervisors may "[e]stablish, abolish and change election precincts, appoint inspectors and judges of elections, canvass election returns, declare the result and issue certificates thereof."

15. Defendants Denny Barney, Steve Chucuri, Andy Kunasek, Clint L. Hickman, and Mary Rose Wilcox are members of the Board of Supervisors and are named in their official capacities.

Jurisdiction and Venue

16. This Court has jurisdiction pursuant to Arizona Constitution, article 6, section 18 and Rule 1 of the Rules of Procedure for Special Actions, as well as A.R.S. § 12-1831 *et. seq.* and Ariz. R. Civ. P. 57, to declare the Legislation unconstitutional and grant the special action relief sought herein. Because the Legislation is unconstitutional, Defendants lack authority to enforce the Legislation's provision for the election of two at-large members to the Maricopa County Community College District Governing Board.

Statement of the Claim

A. Nature of the Action.

17. Plaintiffs bring this Special Action to have the Legislation declared unconstitutional pursuant to the Equal Privileges and Immunities Clause of the Arizona Constitution, art. 2, § 13, and the Local or Special Laws Clause of the Arizona Constitution, art. 4, pt. 2, § 19(11) and (20).

18. Plaintiffs further bring this Special Action against Defendants in the nature of prohibition to prohibit enforcement of the Legislation to the extent that it requires at-large seats on community college district governing boards.

1 **B. Legislation Providing for Creation of At-Large Seats.**

2 19. Since at least 2010, there have been ten community college districts in Arizona,
3 each governed by a locally elected community college district governing board. [See Arizona
4 Community College District Governing Board Member Handbook (3d ed. 2010), App. A-1,
5 attached as Ex. 3] The community college districts are: (1) Cochise County Community College
6 District; (2) Coconino County Community College District; (3) Graham County Community
7 College District; (4) Maricopa County Community College District; (5) Mohave County
8 Community College District; (6) Navajo County Community College District; (7) Pima County
9 Community College District; (8) Pinal County Community College District; (9) Yavapai County
10 Community College District; and (10) Yuma/La Paz Counties Community College District.
11 There are two provisional community college districts, Gila County Provisional Community
12 College District and Santa Cruz County Provisional Community College District.

13 20. Before 2010, Arizona law provided that a community college district governing
14 board would consist of five members—with one member for each precinct established by the
15 county board of supervisors for that district. A.R.S. § 15-1441(A). Once elected, each member's
16 term was six years. *Id.* § 15-1441(C).

17 21. On April 8, 2010, Arizona's Forty-ninth Legislature passed H.B. 2261, and
18 Governor Brewer signed it into law on April 14, 2010. [Ex. 1 (H.B. 2261)] In part, H.B. 2261
19 amended A.R.S. § 15-1441, which sets forth the requirements for selection of community college
20 governing board members throughout all of Arizona. Section 1 of H.B. 2261 specifically
21 amended § 15-1441(I) to provide, among other things, two additional community college district
22 governing board members, to be elected at-large, in counties with populations of at least three
23 million—the Legislation challenged here. Section 1 also reduced the term of community college
24 district board members from six to four years in counties with populations of at least three
25 million. Section 4 provided that current board members in counties with populations of at least
26 three million would continue to serve until the expiration of their normal terms.

27 22. The Legislation was to take effect in the next election after the amendment's
28 effective date. The effective date of the Legislation, however, was subsequently amended by

1 House Bill 2113 (“H.B. 2113”), which was passed on April 29, 2010, and was signed into law by
2 Governor Brewer on May 11, 2010. [H.B. 2113, Ch. 314 of Laws, 49th Leg., 2nd Reg. Sess.
3 (Ariz. 2010), attached as Ex. 4] Specifically, and again in relevant part, Section 2 of H.B. 2113
4 amended A.R.S. § 15-1441 to provide that the addition of two at-large board members would not
5 be effective until July 1, 2012. Section 2 also provided that the reduction in terms of board
6 members from six to four years in counties with a population of more than three million would be
7 effective beginning at the next election after June 30, 2012. Sections 3 and 4 of H.B. 2213
8 repealed A.R.S. § 16-322 (“Number of signatures required on nomination petitions”), and
9 replaced it with identical language except for subsection A(5), which amended the number of
10 signatures a candidate for a community college district must gather. Section 5 amended Section 4
11 of H.B. 2261 to reflect the change in effective date.

12 23. Maricopa County is the only county in Arizona with a population of over three
13 million people and the only Arizona county that will have a population of three million, or even
14 close to three million, for at least the next 40 years. [See Ex. 2 (County Population Projection)]
15 The next most populous county is Pima County, with a population of under one million.
16 According to the Arizona Department of Administration’s statistical estimates, Pima County’s
17 population will reach only 1,518,200 by 2050. [*Id.*]

18 24. The Voting Rights Act of 1965 (“VRA”) requires certain jurisdictions to submit
19 any statutory or procedural change that affects voting for preclearance to the Department of
20 Justice (“DOJ”) before implementing it. Under the coverage formula contained in section 4 of
21 the VRA, Arizona was a covered jurisdiction. Accordingly, and in compliance with the VRA, the
22 Attorney General submitted Sections 1 and 4 of H.B. 2261 and Sections 2 through 5 of H.B. 2113
23 to the DOJ on May 28, 2010 for preclearance. On July 27, 2010, the DOJ sought, among other
24 things, “[a] detailed explanation of the governmental interest to be served by the addition of two
25 members to the college district board and the basis for the state’s decision that this interest is
26 better served by electing them on an at-large basis, as opposed to from single-member districts.”
27 [July 27, 2010 Letter from T. Christian Herren, Jr. to Barbara A. Bailey, at 3, attached as Ex. 5]
28 The DOJ specifically sought “copies of any reports, studies, and analyses that discuss and/or

1 analyze the effect, if any, that the election of these members at-large would have on the minority
2 voting strength in the Maricopa County Community College District.” [*Id.*]

3 25. Following the DOJ’s inquiry, the Arizona Attorney General withdrew from
4 consideration: (1) Section 1 of H.B. 2261, regarding the section’s amendment to A.R.S. § 15-
5 1441(I) (providing for the additional at-large members) and regarding the effective date of the
6 amendment, (2) Section 4 of H.B. 2261, and (3) Section 2 of H.B. 2113, except to the extent that
7 section amended A.R.S. § 15-1441(C) to provide the effective date for the change in the terms of
8 office provided for in H.B. 2261. [Oct. 27, 2010 Letter from Terry Goddard to Chris Herren, at 2,
9 attached as Ex. 6] As such, the election of at-large members was put on hold.

10 26. On June 25, 2013, in *Shelby County, Alabama v. Holder*, 133 S. Ct. 2612 (2013),
11 the U.S. Supreme Court held Section 4 of the VRA unconstitutional, and thus that its coverage
12 formula could no longer be used as a basis for subjecting jurisdictions (including Arizona) to
13 preclearance requirements. Because *Shelby County* effectively removed the preclearance barrier,
14 Arizona Attorney General Tom Horne opined on August 29, 2013, that the effective date for
15 statutes previously withdrawn from preclearance consideration was June 25, 2013. With respect
16 to H.B. 2261 and H.B. 2113 in particular, the Attorney General opined that “the next applicable
17 election at which time two at-large board members shall be elected is 2014.” [Arizona Attorney
18 General Opinion, Effect of *Shelby County* on Withdrawn Preclearance Submissions, at 12,
19 attached as Ex. 7]

20 27. Unless enjoined, the election of the at-large members will take place in November
21 2014, which all of the Defendants threaten to conduct in violation of the Arizona Constitution.

22 **C. The Legislation Creates an Unconstitutional “Closed Class” of One.**

23 28. The Legislation is unconstitutional under the Local or Special Laws Clause of the
24 Arizona Constitution, art. 4, pt. 2, § 19 (11) and (20), because, as drafted, it is plainly intended to
25 apply only to Maricopa County and looks to no broader application in the reasonably near future.
26 Given the difficulty in meeting the population requirements set forth in the Legislation, future
27 entry into the class by any other Arizona county is not reasonably probable.
28

1 29. Based on 2012 population figures, Maricopa County is the only Arizona county
2 with a population of at least three million people and the only Arizona county that will have a
3 population of three million, or even close to three million, for at least the next 40 years. The next
4 most populous county is Pima County, with a population of under one million. According to the
5 Arizona Department of Administration's estimate, Pima County will only reach a population of
6 1,518,200 by 2050. [See Ex. 2 (County Population Projection)] It is thus highly unlikely that any
7 other Arizona county will satisfy the Legislation's population requirement of more than three
8 million in the reasonably near future.

9 30. By its stringent population requirements, the Legislation effectively creates an
10 unconstitutional closed class of one—Maricopa County.

11 **D. The Legislation Does Not Bear a Rational Relationship to a Legitimate**
12 **Legislative Objective.**

13 31. The Legislation is unconstitutional under the Equal Privileges and Immunities
14 Clause of the Arizona Constitution, art. 2, § 13, and the Local or Special Laws Clause of the
15 Arizona Constitution, art. 4, pt. 2, § 19(11) and (20), because its population classification is not
16 reasonably related to any legitimate legislative purpose. By limiting the application of the at-
17 large provision to counties with populations of at least three million, the legislature ensured that
18 the law would only apply to Maricopa County.

19 32. Neither the Session Laws, nor the Arizona House and Senate Summaries and Fact
20 Sheets reveals a legislative purpose beyond the Legislation's terms—that is, to add at-large
21 members to community college district governing boards located in counties with populations of
22 at least three million. Absent specification, it is not clear what the purpose of the Legislation was.

23 33. To the extent the Legislation was introduced to ensure adequate representation of
24 county residents on the community college district governing boards, the Legislation cannot
25 rationally be limited to Maricopa County. While this might be considered a legitimate legislative
26 purpose in certain circumstances, it cannot rationally be limited to only counties with populations
27 over three million, where other counties have substantial populations, like Pima County, and
28 others are larger in geographic size, like Coconino County. Moreover, the addition of at-large

1 seats is not rationally related to enhancing representation on governing boards that are otherwise
2 chosen by district.

3 34. If the Legislation serves a valid purpose for the Maricopa County Community
4 College District, there is no reason why this purpose does not also apply to the State's other
5 community college districts. The Legislation therefore unconstitutionally discriminates against
6 the State's other community college districts.

7 **E. The Class Created by the Legislation is Underinclusive.**

8 35. The Legislation is unconstitutional under the Local or Special Laws Clause of the
9 Arizona Constitution, art. 4, pt. 2, § 19(11) and (20), because it excludes the governing boards of
10 community college districts not in counties with populations of at least three million that are
11 similarly situated in their interest in adequately representing the populations they serve.

12 **First Claim for Relief**

13 **(Declaratory Judgment Relief)**

14 36. Plaintiffs incorporate into this claim all the foregoing allegations.

15 37. Pursuant to A.R.S. § 12-1831 *et. seq.* and Arizona Rule of Civil Procedure 57,
16 Plaintiffs—as parties whose rights, status or other legal relations are affected by the statute—seek
17 an order from this Court declaring that the Legislation is unconstitutional under the Equal
18 Privileges and Immunities Clause of the Arizona Constitution, art. 2, § 13, and the Local or
19 Special Laws Clause of the Arizona Constitution, art. 4, pt. 2, § 19(11) and (20). There is an
20 actual and justiciable controversy, and such judgment or decree will terminate the uncertainty and
21 controversy giving rise to this proceeding as required by A.R.S. § 12-1836.

22 **Second Claim for Relief**

23 **(Special Action Relief in the Nature of Prohibition Against the State of Arizona, Secretary**
24 **of State, Maricopa County Recorder, Maricopa County Election Official, and Maricopa**
County Board of Supervisors)

25 38. Plaintiffs incorporate into this claim all the foregoing allegations.

26 39. Because the Legislation is unconstitutional, Defendants lack jurisdiction or legal
27 authority to certify or conduct elections for at-large candidates. Plaintiffs are entitled to special
28 action relief pursuant to Rule 3(b) of the Rules of Procedure for Special Actions.

Prayer for Relief

WHEREFORE, Plaintiffs request that the Court:

A. Issue an order to show cause pursuant to Rule 4(c) of the Arizona Rules of Procedure for Special Actions setting a time not later than February 14, 2014, for Defendants to file an Answer to this Complaint and response to Plaintiffs' Application for Order to Show Cause why the relief herein sought should not be granted and setting a time for an expedited hearing of this case.

B. Issue an order declaring the Legislation—the provision in A.R.S. § 15-1441, as amended, for two additional community college governing board members, to be elected at-large, in counties with populations of at least three million—unconstitutional under the Equal Privileges and Immunities Clause of the Arizona Constitution, art. 2, § 13, and the Local or Special Laws Clause of the Arizona Constitution, art. 4, pt. 2, § 19(11) and (20).

C. Grant Plaintiffs special action relief prohibiting Defendants from conducting elections for at-large candidates pursuant to A.R.S. § 15-1441.

D. Grant Plaintiffs preliminary and permanent injunctive relief enjoining Defendants from conducting elections for at-large candidates pursuant to A.R.S. § 15-1441.

E. Award attorneys' fees under the private attorney general doctrine or, alternatively, grant Plaintiffs their attorneys' fees and costs in challenging the constitutionality of the Legislation pursuant to A.R.S. §§ 12-348(A)(4) and 12-1840 and Rule 4(g) of the Arizona Rules of Procedure for Special Actions.

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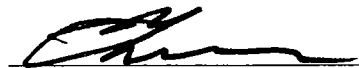
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1 Dated: December 26, 2013

PERKINS COIE LLP

2 By:



3 Paul F. Eckstein
4 Jessica Everett-Garcia
5 Alexis E. Danneman
6 2901 North Central Avenue, Suite 2000
7 Phoenix, Arizona 85012-2788

8 - and -

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10 Rosa Erandi Zamora
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12 **CIVIL RIGHTS UNDER THE LAW**
13 1401 New York Avenue, NW, Suite 400
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15 Attorneys for Plaintiffs

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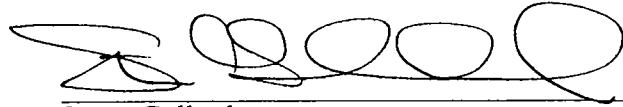
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VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)


STEVE GALLARDO, being first duly sworn upon oath, deposes and says:

I have read the foregoing complaint, and know the contents thereof and that the same is true based on my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and, as to those matters, I believe them to be true.



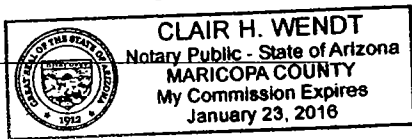
Steve Gallardo

SUBSCRIBED AND SWORN to before me this 19th day of December, 2013.



Notary Public

My Commission Expires:



91004-0032/LEGAL28763642.1

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VERIFICATION


STATE OF ARIZONA)
) ss.
County of Maricopa)

LYDIA GUZMAN, being first duly sworn upon oath, deposes and says:

I have read the foregoing complaint, and know the contents thereof and that the same is true based on my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and, as to those matters, I believe them to be true.


Lydia Guzman

SUBSCRIBED AND SWORN to before me this 20th day of December, 2013.


Notary Public

My Commission Expires:



CLAIR H. WENDT
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
January 23, 2016

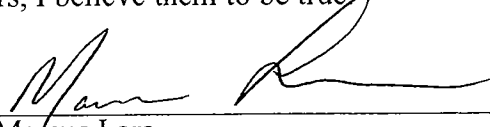
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1 VERIFICATION


2 STATE OF ARIZONA)
3 County of Maricopa) ss.

4 MARCUS LARA, being first duly sworn upon oath, deposes and says:

5 I have read the foregoing complaint, and know the contents thereof and that the same is
6 true based on my own knowledge, except as to the matters therein stated to be alleged upon
7 information and belief, and, as to those matters, I believe them to be true

8 
9 _____
10 Marcus Lara

11 SUBSCRIBED AND SWORN to before me this 20 day of December, 2013.

12 
13 _____
14 Notary Public

14 My Commission Expires:



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VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)

ROSE MARIE DURAN LOPEZ, being first duly sworn upon oath, deposes and says:

I have read the foregoing complaint, and know the contents thereof and that the same is true based on my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and, as to those matters, I believe them to be true.

Rose Marie Lopez
Rose Marie Duran Lopez

SUBSCRIBED AND SWORN to before me this 19th day of December, 2013.

Clair H Wendt
Notary Public

My Commission Expires:



91004-0032/LEGAL28763670.1

1 VERIFICATION

2 STATE OF ARIZONA)
3 County of Maricopa) ss.

4 RANDOLPH LUMM, being first duly sworn upon oath, deposes and says:

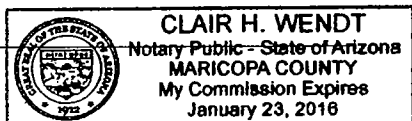
5 I have read the foregoing complaint, and know the contents thereof and that the same is
6 true based on my own knowledge, except as to the matters therein stated to be alleged upon
7 information and belief, and, as to those matters, I believe them to be true.

8 Randolph Lumm
9 Randolph Lumm

10
11 SUBSCRIBED AND SWORN to before me this 19th day of December, 2013.

12 Clair H. Wendt
13 Notary Public

14 My Commission Expires:



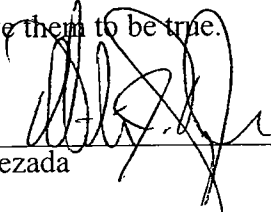
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VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)

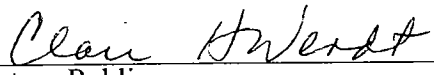
MARTIN QUEZADA, being first duly sworn upon oath, deposes and says:

I have read the foregoing complaint, and know the contents thereof and that the same is true based on my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and, as to those matters, I believe them to be true.



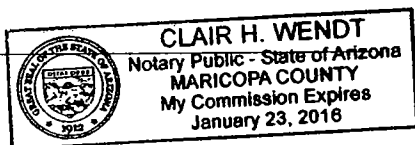
Martin Quezada

SUBSCRIBED AND SWORN to before me this 17th day of December, 2013.



Notary Public

My Commission Expires:



91004-0032/LEGAL28763689.1

Exhibit 1

... has entered a medical
... shall provide to the
... pursuant to subsection A

... executive director pursuant to
... action. The request must
... executive director's action by
... last known residence or place
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... ction. On review, the board

IN DISTRICTS

STATUTES; RELATING TO

... ed to read:

... using for bids

... board shall meet and consider
... reject all or any portion of
... successful bidders. The board
... proposed project as to which
... work so advertised under its

... bids as accepted, and shall
... bond or bonds as required
... the bond being given and

... d executed pursuant to this
... ction of the district engineer,

... o prohibit the district from
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... struction, ten thirty thousand
... and the total amount of the
... hen an emergency exists as
... the state certification board.

... deemed adjusted on July 1
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... United States department of
... base year for making that

strikeout

Sec. 2. Emergency

This act is an emergency measure that is necessary to preserve the public peace, health or safety and is operative immediately as provided by law.

Approved by the Governor, April 14, 2010.

Filed in the Office of the Secretary of State, April 14, 2010.

COMMUNITY COLLEGES

CHAPTER 48

H.B. 2261

AN ACT AMENDING SECTIONS 15-1441, 15-1444 AND 16-322, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY COLLEGES.

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

Section 1. Section 15-1441, Arizona Revised Statutes, is amended to read:

§ 15-1441. Selection of precincts; district board members; terms; qualifications; vacancies

A. The board of supervisors shall establish in the same manner as provided in section 16-411 five precincts in a community college district for the election of a district board member from each precinct. A precinct in a community college district shall be composed of the number of election precincts as determined by the board of supervisors and shall have the same boundaries as are defined for the election precincts under section 16-411. If the board of supervisors redefines the boundaries of election precincts under section 16-411 which that are included within a precinct in a community college district, the board of supervisors shall redefine the boundaries of the precinct in the community college district to conform with the election precinct changes. The precincts shall be established in a newly organized district subsequent to the organizational vote, and the county school superintendent shall appoint five members, one from each precinct, who are qualified electors.

B. Where two or more counties constitute a district, as many precincts shall be set up by the board of supervisors in each county as the county is entitled to membership. In no case shall a county which that is part of a district have more than four precincts, and where a district consists of two or more counties at least one member shall reside in each county.

C. At the first general election held for a district, the candidate having the most votes in each precinct shall be declared elected, provided the candidate meets the requirements provided in subsection A of this section. The two elected members having the highest number of votes receive six year terms, the two elected members receiving the next highest number of votes receive four year terms and the one elected member receiving the lowest number of votes receives a two year term. Thereafter each member's term is six years, except for a county with a population of at least three million persons, beginning in the next election after the effective date of this amendment to this section, each member's term is four years.

D. The next general election of district board members following the first general election shall be for the precinct where the elected candidate received the lowest number of votes and the second general election for the two precincts where the elected candidates received the next highest number of votes and the third general election for the two precincts where the elected candidates received the highest number of votes. The order of elections as established through this procedure shall thereafter be the order of precinct elections.

E. Vacancies shall be filled by appointment by the county school superintendent for the unexpired term for the precinct where the vacancy occurs, except that if the unexpired term is two years or longer, the county school superintendent may do one of the following:

Additions are indicated by underline; deletions by ~~strikeout~~

1. Make an appointment for a term, which shall be until the next regular election for district board members, at which time a successor shall be elected to serve the unexpired portion of the term.

2. With the approval of the district board, leave the vacancy until the next regular election for governing board members, at which time a successor shall be elected to serve the unexpired portion of the term.

F. When a vacancy occurs in a district with more than one county, the county school superintendent of the county where the previous incumbent resided shall fill the appointment for the unexpired term.

G. A county officer as provided in section 11-401 is not eligible to serve as a member of a community college district governing board during his term of office.

H. Employees of a community college district or their spouses are not eligible to hold membership on the community college district governing board in the district in which the employee is employed.

I. In addition to the governing board members who are elected from each of the five precincts in a community college district, a county with a population of at least three million persons shall elect two additional governing members from the district at large. At the first general election held to elect at-large governing board members, the two candidates having the most votes shall be declared elected, if each candidate is a qualified elector who resides in that county. The elected member who receives the highest number of votes of the at-large candidates shall serve a four year term and the elected member who receives the next highest number of votes shall serve a two year term. Thereafter each member's term is four years.

Sec. 2. Section 15-1444, Arizona Revised Statutes, is amended to read:

§ 15-1444. General powers of district governing boards

A. Except as otherwise provided, the district board shall:

1. Maintain each community college for a period of not less than eight months in each year and, if the funds of the district are sufficient, maintain each community college for a longer period.

2. Adopt policies in a public forum to offer programs that meet the educational needs of the population served by the community college.

3. Enforce the courses of study prescribed by the district board.

4. Visit each community college under its jurisdiction and examine carefully into its management, conditions and needs.

5. Exclude from each community college all books, publications or papers of a sectarian, partisan or denominational character intended for use as textbooks.

6. Appoint and employ a chancellor or chancellors, vice-chancellors, a president or presidents, vice-presidents, deans, professors, instructors, lecturers, fellows and such other officers and employees it deems necessary. The district board may enter into employment contracts with chancellors, vice-chancellors and presidents for a duration of more than one year but not more than five years.

7. Determine the salaries of persons it appoints and employs.

8. Remove any officer or employee if in its judgment the interests of education in this state require the removal.

9. Award degrees, certificates and diplomas upon the completion of courses and curriculum as it deems appropriate.

10. Appoint or employ, if it deems necessary, police officers who shall have the authority and power of peace officers. The police officers who have received a certificate from the Arizona peace officer standards and training board are eligible for membership in and benefits under either title 38, chapter 5, article 2 or the public safety personnel retirement system under title 38, chapter 5, article 4.

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11. Determine the location within the district of a community college and purchase, ~~revolve~~, hold, make and take leases of, sell and convey real or personal property for the ~~benefit~~ of the community colleges under its jurisdiction.

14. Obtain insurance or be self-insured, or a combination of insurance and self-insurance, ~~against loss~~, to the extent it is determined necessary on community college buildings of the ~~district~~. The local district shall have an insurable interest in the buildings.

14. The district board may:

1. Administer trusts declared or created for the district and receive by gift or devise and ~~hold~~ in trust or otherwise property wheresoever located, and if not otherwise provided, ~~disposal~~ of the property for the benefit of the district.

2. Lease real property, as lessor or as lessee. If a district is the lessee, the lease may ~~contain~~ an option to purchase the property. The district board may adopt policies as are ~~deemed~~ necessary and may delegate in writing to the chancellor or president of the district, or their designees, all or any part of its authority to lease property under this paragraph. A ~~district~~ board shall not delegate the authority to execute a lease that exceeds one hundred ~~thousand~~ dollars per year. Any delegation by the district board pursuant to this paragraph may be rescinded in whole or in part at any time by the district board.

11. Sue and be sued.

4. Contract. The district board may adopt such policies as are deemed necessary and may delegate in writing to the chancellor or president of the district, or their designees, all or any part of its authority to contract under this paragraph. Any delegation of authority under this paragraph may be rescinded by the district board at any time in whole or in part.

6. Construct, remodel and repair buildings.

8. In conjunction with other districts, establish policies for procurement of goods and ~~services~~.

7. Provide a plan or plans for employee benefits which may include optional retirement programs pursuant to section 15-1451, subsection A, which allow for participation in a ~~uniform~~ plan that meets the requirements of the United States internal revenue code of 1986.

8. Accept grants or donations of monies from the United States, or from any of its ~~agencies~~, departments or officers, or from persons, corporations, foundations or associations. A ~~district~~ board shall deposit the monies into a specific fund or account and a district board shall administer the monies in accordance with the purpose of the grant or donation with ~~specific~~ policies or restrictions as described or stipulated in the grant or donation. In the ~~case~~ of personal property granted or donated to or for the benefit of a community college ~~district~~, a district board shall immediately transfer possession and ownership of the property to the designated district.

9. Enter into intergovernmental agreements or contracts pursuant to section 11-952.01 for participation in programs offered by public agency pools or separately contract with a ~~trustee~~ or board of trustees that provides a common self-insurance program with pooled funds and risks pursuant to section 15-382, subsection B, paragraph 2. The district board is not required to engage in competitive procurement in order to make the decision to participate in these programs.

10. Name a building or a group of buildings that is located on a community college campus on behalf of a person or entity that has made a significant contribution of monies or other property to the community college or the community college district.

11. Enter into research and development agreements, royalty agreements, development agreements, licensing agreements and profit-sharing agreements concerning the research, development, production, storing or marketing of new products developed or to be developed through community college district research.

13. If a district acquires real or personal property, whether by purchase, exchange, condemnation, gift or otherwise, the district shall pay to the county treasurer any taxes on the property that were unpaid as of the date of acquisition, including penalties and interest. The lien for unpaid delinquent taxes, penalties and interest on property acquired by the ~~district~~:

1. Is not abated, extinguished, discharged or merged in the title to the property.
2. Is enforceable in the same manner as other delinquent tax liens.

D. ~~From and after December 31, 1988,~~ In a district whose boundaries encompass a vehicle emissions control area as defined in section 49-541 the district board shall require all out of county and out of state students to sign an affidavit at the time of course registration that the student's vehicle meets the requirements of section 49-542. ~~From and after December 31, 1988,~~ The district board on property under its jurisdiction within a vehicle emissions control area shall prohibit the parking of those vehicles which ~~that~~ fail to comply with section 49-542.

E. A community college district and a joint technological education district governing board may enter into agreements for the provision of administrative, operational and educational services and facilities.

F. Each district may establish a program for the exchange of students between the community colleges under its jurisdiction and colleges and universities located in Sonora, Mexico. The program may provide for in-state tuition for Sonora students at the community colleges under ~~it's~~ the jurisdiction of the district in exchange for similar tuition provisions for Arizona students enrolled or seeking enrollment in Sonora colleges and universities. The community colleges may work in conjunction with the Arizona-Mexico commission in the governor's office to coordinate recruitment and admissions activities to provide for in-state tuition for up to fifty Sonora students at the community colleges under ~~it's~~ the jurisdiction of the district in exchange for similar tuition provisions for up to fifty total Arizona students enrolled or seeking enrollment in Sonora colleges and universities.

G. Each district shall facilitate transfer articulation coordination pursuant to section 15-1824.

Sec. 3. Section 16-322, Arizona Revised Statutes, is amended to read:

§ 16-322. Number of signatures required on nomination petitions

A. Nomination petitions shall be signed:

1. If for a candidate for the office of United States senator or for a state office, excepting members of the legislature and superior court judges, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the voter registration of the party of the candidate in at least three counties in the state, but not less than one-half of one per cent nor more than ten per cent of the total voter registration of the candidate's party in the state.

2. If for a candidate for the office of representative in Congress, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent but not more than ten per cent of the total voter registration of the party designated in the district from which such representative shall be elected.

3. If for a candidate for the office of member of the legislature, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one per cent but not more than three per cent of the total voter registration of the party designated in the district from which the member of the legislature may be elected.

4. If for a candidate for a county office or superior court judge, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the total voter registration of the party designated in the county or district, provided that in counties with a population of two hundred thousand persons or more, a candidate for a county office shall have nomination petitions signed by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent but not more than ten per cent of the total voter registration of the party designated in the county or district.

5. If for a candidate for a community college district, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least ~~one-half~~ one-quarter of one per cent but not more than ten per cent of the total

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voter registration in the precinct as established pursuant to section 15-1441. Notwithstanding the total voter registration in the community college district, the maximum number of signatures required by this paragraph is one thousand.

6. If for a candidate for county precinct committeeman, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the party voter registration in the precinct or ten signatures, whichever is less.

7. If for a candidate for justice of the peace or constable, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the party voter registration in the precinct.

8. If for a candidate for mayor or other office nominated by a city at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the city, except that a city that chooses to hold nonpartisan elections may by ordinance provide that the minimum number of signatures required for the candidate be one thousand signatures or five per cent of the vote in the city, whichever is less, but not more than ten per cent of the vote in the city.

9. If for an office nominated by ward, precinct or other district of a city, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the ward, precinct or other district.

10. If for a candidate for an office nominated by a town at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the vote in the town.

11. If for a candidate for a governing board of a school district, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the total voter registration in the school district if the governing board members are elected at large or one per cent of the total voter registration in the single member district if governing board members or joint technological education district board members are elected from single member districts. Notwithstanding the total voter registration in the school district or single member district, the maximum number of signatures required by this paragraph is four hundred.

12. If for a candidate for a governing body of a special district as described in title 48, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the vote in the special district but not more than two hundred fifty and not fewer than five signatures.

B. The basis of percentage in each instance referred to in subsection A of this section, except in cities, towns and school districts, shall be the number of voters registered in the designated party of the candidate as reported pursuant to section 16-168, subsection G on March 1 of the year in which the general election is held. In cities, the basis of percentage shall be the vote of the party for mayor at the last preceding election at which a mayor was elected. In towns, the basis of percentage shall be the highest vote cast for an elected official of the town at the last preceding election at which an official of the town was elected. In school districts, the basis of percentage shall be the total number of voters registered in the school district or single member district, whichever applies. The total number of voters registered for school districts shall be calculated using the periodic reports prepared by the county recorder pursuant to section 16-168, subsection G. The count that is reported on March 1 of the year in which the general election is held shall be the basis for the calculation of total voter registration for school districts.

C. In primary elections the signature requirement for party nominees, other than nominees of the parties entitled to continued representation pursuant to section 16-804, is at least one-tenth of one per cent of the total vote for the winning candidate or candidates for governor or presidential electors at the last general election within the district. Signatures must be obtained from qualified electors who are qualified to vote for the candidate whose nomination petition they are signing.

D. If new boundaries for congressional districts, legislative districts, supervisorial districts, justice precincts or election precincts are established and effective subsequent to March 1 of the year of a general election and prior to the date for filing of nomination petitions, the basis for determining the required number of nomination petition signatures is the number of registered voters in the designated party of the candidate in the elective office, district or precinct on the day the new districts or precincts are effective.

Sec. 4. Existing board members

Notwithstanding section 15-1441, Arizona Revised Statutes, as amended by this act, all persons serving as members of a community college district governing board in a county with a population of at least three million persons on the effective date of this act shall continue to serve until the expiration of their normal terms.

Approved by the Governor, April 14, 2010.

Filed in the Office of the Secretary of State, April 14, 2010.

BOARD OF EDUCATION

CHAPTER 49

H.B. 2298

AN ACT AMENDING SECTION 15-203, ARIZONA REVISED STATUTES; RELATING TO THE STATE BOARD OF EDUCATION.

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

Section 1. Section 15-203, Arizona Revised Statutes, is amended to read:

§ 15-203. Powers and duties

A. The state board of education shall:

1. Exercise general supervision over and regulate the conduct of the public school system and adopt any rules and policies it deems necessary to accomplish this purpose.
2. Keep a record of its proceedings.
3. Make rules for its own government.
4. Determine the policy and work undertaken by it.
5. Appoint its employees, on the recommendation of the superintendent of public instruction.
6. Prescribe the duties of its employees if not prescribed by statute.
7. Delegate to the superintendent of public instruction the execution of board policies and rules.
8. Recommend to the legislature changes or additions to the statutes pertaining to schools.
9. Prepare, publish and distribute reports concerning the educational welfare of this state.
10. Prepare a budget for expenditures necessary for proper maintenance of the board and accomplishment of its purposes and present the budget to the legislature.
11. Aid in the enforcement of laws relating to schools.
12. Prescribe a minimum course of study in the common schools, minimum competency requirements for the promotion of pupils from the third grade and minimum course of study and competency requirements for the promotion of pupils from the eighth grade. The state board of education shall prepare a fiscal impact statement of any proposed changes to the minimum course of study or competency requirements and, on completion, shall send a copy to the director of the joint legislative budget committee and the executive director of the

Exhibit 2

ARIZONA STATE AND COUNTY POPULATION PROJECTIONS: 2012 TO 2050, MEDIUM SERIES

Year	Arizona	Phoenix Metro	Tucson Metro	Balance of State	Apache County	Cochise County	Coconino County	Gila County	Graham County	Greenlee County	La Paz County	Maricopa County	Mohave County	Navajo County	Pima County	Pinal County	Santa Cruz County	Yavapai County	Yuma County
2012	6,498,600	4,273,900	990,400	1,234,300	72,300	130,800	134,300	53,600	37,300	8,600	20,900	3,884,700	203,100	107,900	990,400	389,200	48,700	211,600	205,200
2013	6,572,000	4,329,300	998,300	1,244,400	72,400	131,700	135,400	53,700	37,700	8,500	20,900	3,933,700	204,900	109,000	998,300	395,600	49,300	213,200	207,700
2014	6,659,800	4,393,500	1,008,400	1,257,900	72,500	132,800	136,600	53,900	38,100	8,500	20,900	3,990,000	207,900	110,100	1,008,400	403,500	50,000	216,100	210,500
2015	6,777,500	4,478,700	1,022,100	1,276,700	72,600	134,200	137,900	54,100	38,600	8,400	21,000	4,063,700	212,800	111,300	1,022,100	415,000	50,900	220,800	214,100
2016	6,912,200	4,577,100	1,037,200	1,297,900	72,900	135,800	139,200	54,500	39,100	8,400	21,100	4,148,200	218,400	112,400	1,037,200	428,900	51,800	226,200	218,100
2017	7,059,000	4,684,300	1,053,600	1,321,100	73,100	137,500	140,600	54,800	39,600	8,500	21,200	4,239,600	224,600	113,500	1,053,600	444,700	52,900	232,200	222,600
2018	7,205,700	4,792,000	1,069,900	1,343,800	73,300	139,100	141,900	55,100	40,200	8,500	21,400	4,331,100	230,600	114,600	1,069,900	460,900	53,900	238,000	227,200
2019	7,347,500	4,897,400	1,085,300	1,364,800	73,400	140,800	143,100	55,400	40,700	8,500	21,500	4,420,300	236,000	115,700	1,085,300	477,100	54,800	243,200	231,700
2020	7,485,000	5,000,100	1,100,000	1,384,900	73,500	142,400	144,300	55,700	41,200	8,500	21,600	4,506,900	241,000	116,800	1,100,000	493,200	55,700	247,900	236,300
2021	7,622,100	5,102,800	1,114,700	1,404,600	73,600	144,000	145,500	55,900	41,800	8,500	21,700	4,593,100	245,800	117,900	1,114,700	509,700	56,600	252,400	240,900
2022	7,758,600	5,205,600	1,129,200	1,423,800	73,600	145,600	146,600	56,100	42,300	8,500	21,800	4,679,000	250,500	118,900	1,129,200	526,600	57,500	256,900	245,500
2023	7,895,400	5,308,700	1,143,700	1,443,000	73,700	147,200	147,700	56,300	42,800	8,500	22,000	4,764,700	255,100	119,900	1,143,700	544,000	58,400	261,200	250,200
2024	8,031,700	5,411,900	1,158,200	1,461,600	73,600	148,700	148,800	56,500	43,400	8,500	22,100	4,850,100	259,700	120,800	1,158,200	561,800	59,200	265,500	254,800
2025	8,168,200	5,515,600	1,172,500	1,480,100	73,600	150,200	149,800	56,700	43,900	8,500	22,200	4,935,400	264,100	121,800	1,172,500	580,200	60,100	269,700	259,500
2026	8,305,100	5,619,800	1,186,800	1,498,500	73,500	151,800	150,800	56,900	44,500	8,600	22,300	5,020,600	268,500	122,700	1,186,800	599,200	60,900	273,800	264,200
2027	8,441,700	5,724,400	1,201,000	1,516,300	73,400	153,300	151,700	57,000	45,000	8,600	22,300	5,105,600	272,900	123,600	1,201,000	618,800	61,800	277,800	268,900
2028	8,578,300	5,829,400	1,215,100	1,533,800	73,300	154,700	152,600	57,200	45,500	8,600	22,400	5,190,400	277,200	124,400	1,215,100	639,000	62,600	281,700	273,600
2029	8,715,200	5,934,900	1,229,100	1,551,200	73,100	156,200	153,500	57,300	46,100	8,600	22,500	5,275,000	281,400	125,200	1,229,100	659,900	63,400	285,600	278,300
2030	8,852,800	6,041,100	1,243,100	1,568,600	72,900	157,700	154,400	57,500	46,600	8,600	22,600	5,359,500	285,600	126,000	1,243,100	681,600	64,200	289,400	283,100
2031	8,990,500	6,147,900	1,257,100	1,585,500	72,700	159,200	155,200	57,600	47,100	8,600	22,700	5,443,900	289,700	126,800	1,257,100	704,000	64,900	293,100	287,900
2032	9,128,500	6,255,100	1,270,900	1,602,500	72,400	160,700	156,000	57,700	47,700	8,600	22,800	5,527,900	293,800	127,500	1,270,900	727,200	65,700	296,800	292,800
2033	9,266,000	6,362,300	1,284,700	1,619,000	72,100	162,200	156,700	57,800	48,200	8,600	22,900	5,611,300	297,800	128,200	1,284,700	751,000	66,500	300,300	297,700
2034	9,403,300	6,469,700	1,298,400	1,635,200	71,700	163,700	157,500	57,900	48,700	8,600	23,000	5,694,100	301,600	128,800	1,298,400	775,600	67,200	303,800	302,700
2035	9,540,800	6,577,000	1,312,100	1,651,700	71,400	165,300	158,200	58,100	49,300	8,600	23,100	5,776,300	305,400	129,500	1,312,100	800,700	67,900	307,100	307,800
2036	9,677,400	6,684,300	1,325,700	1,667,400	71,000	166,800	158,800	58,200	49,800	8,600	23,200	5,857,700	309,100	130,100	1,325,700	826,600	68,600	310,300	312,900
2037	9,813,500	6,791,300	1,339,300	1,682,900	70,500	168,400	159,500	58,300	50,300	8,500	23,200	5,938,400	312,700	130,700	1,339,300	852,900	69,300	313,400	318,100
2038	9,949,100	6,898,000	1,352,800	1,698,300	70,100	170,000	160,100	58,400	50,800	8,500	23,300	6,018,200	316,200	131,200	1,352,800	879,800	70,000	316,400	323,300
2039	10,084,400	7,004,300	1,366,200	1,713,900	69,700	171,700	160,700	58,600	51,400	8,500	23,400	6,097,100	319,600	131,800	1,366,200	907,200	70,700	319,200	328,600
2040	10,218,200	7,109,800	1,379,600	1,728,800	69,200	173,400	161,300	58,700	51,900	8,500	23,500	6,174,900	322,800	132,300	1,379,600	934,900	71,400	321,900	333,900
2041	10,351,800	7,215,100	1,393,000	1,743,700	68,700	175,100	161,900	58,900	52,400	8,500	23,600	6,252,000	325,900	132,800	1,393,000	963,100	72,000	324,500	339,400
2042	10,485,400	7,320,200	1,406,500	1,758,700	68,200	176,900	162,500	59,100	52,900	8,500	23,700	6,328,400	329,000	133,300	1,406,500	991,800	72,700	327,100	344,800
2043	10,619,100	7,425,300	1,420,000	1,773,800	67,700	178,700	163,100	59,300	53,500	8,500	23,800	6,404,200	332,000	133,800	1,420,000	1,021,100	73,400	329,600	350,400
2044	10,752,400	7,530,300	1,433,700	1,788,400	67,100	180,500	163,700	59,500	54,000	8,500	24,000	6,479,500	334,900	134,200	1,433,700	1,050,800	74,000	332,000	356,000
2045	10,886,000	7,635,400	1,447,400	1,803,200	66,600	182,400	164,200	59,700	54,500	8,500	24,100	6,554,400	337,800	134,700	1,447,400	1,081,000	74,600	334,400	361,700
2046	11,019,900	7,740,700	1,461,200	1,818,000	66,000	184,300	164,800	59,900	55,000	8,500	24,200	6,629,000	340,600	135,100	1,461,200	1,111,700	75,300	336,800	367,500
2047	11,154,500	7,846,300	1,475,200	1,833,000	65,500	186,200	165,300	60,100	55,600	8,500	24,300	6,703,300	343,500	135,600	1,475,200	1,143,000	75,900	339,200	373,300
2048	11,289,800	7,952,200	1,489,400	1,848,200	64,900	188,200	165,900	60,400	56,100	8,500	24,400	6,777,400	346,400	136,000	1,489,400	1,174,800	76,600	341,600	379,200
2049	11,426,000	8,058,600	1,503,700	1,863,700	64,300	190,200	166,500	60,700	56,700	8,500	24,600	6,851,400	349,300	136,500	1,503,700	1,207,200	77,200	344,100	385,100
2050	11,562,500	8,165,500	1,518,200	1,878,800	63,700	192,300	167,000	60,900	57,200	8,400	24,700	6,925,300	352,200	136,900	1,518,200	1,240,200	77,800	346,600	391,100

Arizona Department of Administration, Office of Employment & Population Statistics, 12/07/2012

Telephone: 602-771-2222

Fax: 602-771-1207

Exhibit 3

**ARIZONA COMMUNITY COLLEGE
DISTRICT GOVERNING BOARD MEMBER
HANDBOOK**

THIRD EDITION

ARIZONA ASSOCIATION OF DISTRICT GOVERNING BOARDS ARIZONA

FIRST EDITION, DECEMBER, 1988
REVISED, 1989, 1990, 1991, 1992, 1994
SECOND EDITION, FEBRUARY 1999
THIRD EDITION, JANUARY 2010

COMMUNITY COLLEGES: A HISTORICAL PERSPECTIVE

Nationally, the community college movement dates back to the late 1800's. At that time, President Tappen of the University of Illinois, President Harper of the University of Chicago and Alexis Lange of the University of California urged universities to develop junior college certificates which would be required of students before entrance into junior, senior and graduate school years. During this same time period, Harper urged underfinanced four-year liberal arts colleges to reorganize and to offer only the first two years of a college education.

From this set of parents, the community college movement received faculty ranking systems, subject-matter specialists and a desire for substantial faculty voice in the decision-making processes of the college. In 1882, the school system of Joliet Township, Illinois, established the first public community college. This development represents the other major influence on community colleges. Many schools, especially ones located in rural areas, established either community college departments within the high school or separate schools controlled by the local Board of Education.

A focus on the teaching-learning process, primary interest in students and an administratively-controlled structure were inherited from this set of parents. Much of the history of the community college movement has been an attempt to reconcile the conflicts that have arisen from the desire of community college faculty to be subject matter specialists with a voice in the decision-making process and the autocratically controlled administrative structure calling for subject matter generalists.

It has been 40 years since the Truman Commission on Higher Education developed groundbreaking recommendations on community colleges. In 1947, as its work was completed, there were 640 junior colleges in the United States enrolling 497,065 college credit students. The development of community colleges in Arizona was much like the development in other areas in the country.

After the completion of the feasibility study and passage of Senate Bill 43, in 1960, the Arizona Community College System was born with the appointment of the first State Board and the incorporation of Eastern Arizona College and Phoenix College into the system. Eastern Arizona College's charter was granted in 1888, and it was founded as an adjunct to the Church of Jesus Christ of Latter Day Saints; Phoenix College was founded in 1920 as an adjunct to Phoenix Union High School. The Arizona Community College System grew with the addition of these districts:

Cochise County Community College District	
Cochise College	1962
Coconino County Community College District	
Coconino County Community College	1990
Graham County Community College District	
Eastern Arizona College	1960
Maricopa County Community College District	
Chandler-Gilbert Community College	1985
Estrella Mountain Community College	1997
GateWay Community College	1968
Glendale Community College	1961
Mesa Community College	1965
Paradise Valley Community College	1985
Phoenix College	1960
Rio Salado Community College	1978
Scottsdale Community College	1969
South Mountain Community College	1979
Mohave County Community College District	
Mohave Community College	1974
Navajo County Community College District	
Northland Pioneer College	1974
Pima County Community College District	
Pima Community College	1969
Pinal County Community College District	
Central Arizona College	1962
Yavapai County Community College District	
Yavapai College	1966
Yuma/LaPaz Counties Community College District	
Arizona Western College	1961

Exhibit 4

4. Knowingly making a representation to a person that another person sponsors, endorses or approves the solicitation if the other person has not given consent in writing to the use of his that person's name for these purposes.

5. Knowingly representing to a person that the registration constitutes an endorsement or approval by this state.

6. Knowingly failing to post in a clear and conspicuous manner at a location in which a charitable organization or other business entity receives donated items for the purpose of reselling the items to financially benefit a charitable organization one of the following statements:

(a) This collection site is owned by [name of charity], a charitable organization. Donated items received at this location will support the charitable mission of [name of charity].

(b) This collection site is owned by [name of company], a for-profit company. Donated items received at this location will be sold by [name of company] with a portion of the proceeds benefiting [name of charity].

B. Except as provided in section 44-6552, subsection D or subsection C of this section, a person who fails to register or provide reports as provided by this article or who otherwise fails to comply with any provision of this article is guilty of a class 1 misdemeanor.

C. A contracted fund raiser who knowingly conducts any act or practice proscribed in subsection A of this section is guilty of a class 6 felony.

D. An independent solicitor who knowingly conducts any act or practice proscribed in subsection A of this section or who fails to comply with section 44-6555, subsection D is guilty of a class 1 misdemeanor.

E. In addition to the criminal offenses provided in subsections B, C and D of this section, if a person conducts an act or practice proscribed in subsection A of this section, the attorney general may recover from the person on behalf of the state a civil penalty of not more than one thousand dollars per violation. The civil penalty prescribed by this subsection is in lieu of the penalty prescribed by section 44-1531.

F. For the purposes of subsection A, paragraph 6 of this section, an entity owns a collection site if the entity receives at least fifty-one per cent of the proceeds generated by the retail sale of the donated items received at the collection site.

Sec. 16. Laws 2008, chapter 291, section 9 is amended to read:

Sec. 9. Delayed implementation; professional employer organization registration; retroactivity

A. Notwithstanding any other law, the secretary of state shall not implement title 23, chapter 3, article 4, Arizona Revised Statutes, relating to professional employer organization registration, or any rules adopted pursuant to title 23, chapter 3, article 4, Arizona Revised Statutes, until July 1, 2010 2012.

B. This section is effective retroactively to from and after February 29, 2008.

Approved by the Governor, May 11, 2010.

Filed in the Office of the Secretary of State, May 12, 2010.

COMMUNITY COLLEGE DISTRICTS

CHAPTER 314

H.B. 2113

AN ACT AMENDING SECTION 15-1409, ARIZONA REVISED STATUTES; AMENDING SECTION 15-1441, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 48, SECTION 1; REPEALING SECTION 16-322, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 48, SECTION 3; AMENDING SECTION 16-322, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 17, SECTION 21; AMENDING LAWS 2010, CHAPTER 48, SECTION 4; RELATING TO COMMUNITY COLLEGE DISTRICTS.

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

Additions are indicated by underline; deletions by ~~strikeout~~

Section 1. Section 15-1409, Arizona Revised Statutes, is amended to read:

§ 15-1409. Provisional community college districts; formation; governing board; powers and duties; issuance and sale of bonds for capital outlay

A. A provisional community college district shall contract with an existing community college district to provide instructional and student services within the provisional community college district.

B. The minimum assessed valuation and population requirements prescribed in section 15-1402 do not apply to provisional community college districts.

C. A provisional community college district shall be formed and a provisional community college district governing board shall be elected in the same manner prescribed in sections 15-1403, 15-1404 and 15-1441, except that the county board of supervisors by majority vote may adopt a resolution to submit the question of the formation of a provisional community college district directly to the qualified electors of the county at a special or general election called for that purpose as prescribed in section 16-204 and title 35, chapter 3, article 3. The resolution adopted by the county board of supervisors shall include a statement that the primary property tax levy limit for the provisional community college district shall be no less than the levy limit of the most recently formed community college district in this state.

D. Except as provided in this section, a provisional community college district governing board has the same powers and duties specified in section 15-1444 for community college districts.

E. A provisional community college district shall not award degrees, certificates or diplomas.

F. A provisional community college district is not eligible to receive equalization aid pursuant to section 15-1468 or state contribution for capital outlay for initial or additional campuses pursuant to section 15-1463.

G. The state aid eligibility requirements prescribed in section 15-1466, subsection G, paragraphs 1 and 2 do not apply to provisional community college districts.

H. Notwithstanding any other law, the same student shall not be counted twice as a full-time equivalent student in both a provisional community college district and a community college district. Notwithstanding any other law, beginning with the fiscal year after the year in which the provisional community college district is formed and has established its primary tax rate, a district that provides services in a provisional district pursuant to section 15-1470 shall no longer count these students in the district's full-time equivalent student count.

I. If a provisional community college district is converted into a community college district by the formation of a community college district pursuant to section 15-1402, the provisional community college district is dissolved and any equipment, property, personnel, liabilities and assets are transferred to the community college district.

J. If a provisional community college district is formed in a county that provides reimbursement for the attendance of nonresident state students pursuant to section 15-1469, that county shall continue to provide reimbursement payments to community college districts for the remainder of the fiscal year in which the provisional community college district is formed, provided that the county board of supervisors adopts a levy that is at least equal to the sum of the reimbursement payments and the amount of the community college services provided in the fiscal year immediately before the formation of the provisional community college district.

K. The board of supervisors of a county that has formed a provisional community college district ~~may~~ by majority vote may enter into an intergovernmental agreement to loan monies to the governing board of the provisional community college district in an amount that does not exceed two hundred thousand dollars. Any loan pursuant to this subsection shall be repaid from the next scheduled collection of property taxes to fund the provisional community college district. The annual interest charges on any loan pursuant to this subsection shall not exceed five per cent.

L. A provisional community college district may issue bonds for capital outlay purposes in the same manner prescribed in section 15-1465 for community college districts. The governing board of the provisional community college district is solely responsible for determining the encumbrance and approval of the expenditure of the proceeds of the bonds issued pursuant to this subsection and shall not delegate or transfer this authority to any other entity.

Sec. 2. Section 15-1441, Arizona Revised Statutes, as amended by Laws 2010, chapter 48, section 1, is amended to read:

§ 15-1441. Selection of precincts; district board members; terms; qualifications; vacancies

A. The board of supervisors shall establish in the same manner as provided in section 16-411 five precincts in a community college district for the election of a district board member from each precinct. A precinct in a community college district shall be composed of the number of election precincts as determined by the board of supervisors and shall have the same boundaries as are defined for the election precincts under section 16-411. If the board of supervisors redefines the boundaries of election precincts under section 16-411 that are included within a precinct in a community college district, the board of supervisors shall redefine the boundaries of the precinct in the community college district to conform with the election precinct changes. The precincts shall be established in a newly organized district subsequent to the organizational vote, and the county school superintendent shall appoint five members, one from each precinct, who are qualified electors.

B. Where two or more counties constitute a district, as many precincts shall be set up by the board of supervisors in each county as the county is entitled to membership. In no case shall a county that is part of a district have more than four precincts, and where a district consists of two or more counties at least one member shall reside in each county.

C. At the first general election held for a district, the candidate having the most votes in each precinct shall be declared elected, provided the candidate meets the requirements provided in subsection A of this section. The two elected members having the highest number of votes receive six year terms, the two elected members receiving the next highest number of votes receive four year terms and the one elected member receiving the lowest number of votes receives a two year term. Thereafter each member's term is six years, except for a county with a population of at least three million persons, beginning in at the next election after the effective date of this amendment to this section June 30, 2012, each member's term is four years.

D. The next general election of district board members following the first general election shall be for the precinct where the elected candidate received the lowest number of votes and the second general election for the two precincts where the elected candidates received the next highest number of votes and the third general election for the two precincts where the elected candidates received the highest number of votes. The order of elections as established through this procedure shall thereafter be the order of precinct elections.

E. Vacancies shall be filled by appointment by the county school superintendent for the unexpired term for the precinct where the vacancy occurs, except that if the unexpired term is two years or longer, the county school superintendent may do one of the following:

1. Make an appointment for a term, which shall be until the next regular election for district board members, at which time a successor shall be elected to serve the unexpired portion of the term.

2. With the approval of the district board, leave the vacancy until the next regular election for governing board members, at which time a successor shall be elected to serve the unexpired portion of the term.

F. When a vacancy occurs in a district with more than one county, the county school superintendent of the county where the previous incumbent resided shall fill the appointment for the unexpired term.

G. A county officer as provided in section 11-401 is not eligible to serve as a member of a community college district governing board during his term of office.

H. Employees of a community college district or their spouses are not eligible to hold membership on the community college district governing board in the district in which the employee is employed.

I. Beginning July 1, 2012, in addition to the governing board members who are elected from each of the five precincts in a community college district, a county with a population of at least three million persons shall elect two additional governing members from the district at large. At the first general election held to elect at-large governing board members, the two candidates having the most votes shall be declared elected, if each candidate is a qualified elector who resides in that county. The elected member who receives the highest number of votes of the at-large candidates shall serve a four year term and the elected member who receives the next highest number of votes shall serve a two year term. Thereafter each member's term is four years.

Sec. 3. Repeal

Section 16-322, Arizona Revised Statutes, as amended by Laws 2010, chapter 48, section 3, is repealed.

Sec. 4. Section 16-322, Arizona Revised Statutes, as amended by Laws 2010, chapter 17, section 21, is amended to read:

§ 16-322. Number of signatures required on nomination petitions

A. Nomination petitions shall be signed:

1. If for a candidate for the office of United States senator or for a state office, excepting members of the legislature and superior court judges, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the voter registration of the party of the candidate in at least three counties in the state, but not less than one-half of one per cent nor more than ten per cent of the total voter registration of the candidate's party in the state.

2. If for a candidate for the office of representative in Congress, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent but not more than ten per cent of the total voter registration of the party designated in the district from which such representative shall be elected.

3. If for a candidate for the office of member of the legislature, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one per cent but not more than three per cent of the total voter registration of the party designated in the district from which the member of the legislature may be elected.

4. If for a candidate for a county office or superior court judge, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the total voter registration of the party designated in the county or district, provided that in counties with a population of two hundred thousand persons or more, a candidate for a county office shall have nomination petitions signed by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent but not more than ten per cent of the total voter registration of the party designated in the county or district.

5. If for a candidate for a community college district, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least:

(a) Through June 30, 2012, one-half of one per cent but not more than ten per cent of the total voter registration in the precinct as established pursuant to section 15-1441.

(b) Beginning July 1, 2012, one-quarter of one per cent but not more than ten per cent of the total voter registration in the precinct as established pursuant to section 15-1441. Notwithstanding the total voter registration in the community college district, the maximum number of signatures required by this subdivision is one thousand.

6. If for a candidate for county precinct committeeman, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the party voter registration in the precinct or ten signatures, whichever is less.

7. If for a candidate for justice of the peace or constable, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least two per cent but not more than ten per cent of the party voter registration in the precinct.

8. If for a candidate for mayor or other office nominated by a city at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the city, except that a city that chooses to hold nonpartisan elections may by ordinance provide that the minimum number of signatures required for the candidate be one thousand signatures or five per cent of the vote in the city, whichever is less, but not more than ten per cent of the vote in the city.

9. If for an office nominated by ward, precinct or other district of a city, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the designated party vote in the ward, precinct or other district.

10. If for a candidate for an office nominated by a town at large, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least five per cent and not more than ten per cent of the vote in the town.

11. If for a candidate for a governing board of a school district, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the total voter registration in the school district if the governing board members are elected at large or one per cent of the total voter registration in the single member district if governing board members or joint technical education district board members are elected from single member districts. Notwithstanding the total voter registration in the school district or single member district, the maximum number of signatures required by this paragraph is four hundred.

12. If for a candidate for a governing body of a special district as described in title 48, by a number of qualified electors who are qualified to vote for the candidate whose nomination petition they are signing equal to at least one-half of one per cent of the vote in the special district but not more than two hundred fifty and not fewer than five signatures.

B. The basis of percentage in each instance referred to in subsection A of this section, except in cities, towns and school districts, shall be the number of voters registered in the designated party of the candidate as reported pursuant to section 16-168, subsection G on March 1 of the year in which the general election is held. In cities, the basis of percentage shall be the vote of the party for mayor at the last preceding election at which a mayor was elected. In towns, the basis of percentage shall be the highest vote cast for an elected official of the town at the last preceding election at which an official of the town was elected. In school districts, the basis of percentage shall be the total number of voters registered in the school district or single member district, whichever applies. The total number of voters registered for school districts shall be calculated using the periodic reports prepared by the county recorder pursuant to section 16-168, subsection G. The count that is reported on March 1 of the year in which the general election is held shall be the basis for the calculation of total voter registration for school districts.

C. In primary elections the signature requirement for party nominees, other than nominees of the parties entitled to continued representation pursuant to section 16-804, is at least one-tenth of one per cent of the total vote for the winning candidate or candidates for governor or presidential electors at the last general election within the district. Signatures must be obtained from qualified electors who are qualified to vote for the candidate whose nomination petition they are signing.

D. If new boundaries for congressional districts, legislative districts, supervisorial districts, justice precincts or election precincts are established and effective subsequent to March 1 of the year of a general election and prior to the date for filing of nomination

petitions, the basis for determining the required number of nomination petition signatures is the number of registered voters in the designated party of the candidate in the elective office, district or precinct on the day the new districts or precincts are effective.

Sec. 5. Laws 2010, chapter 48, section 4 is amended to read:

Sec. 4. Existing board members

Notwithstanding section 15-1441, Arizona Revised Statutes, as amended by this act, all persons serving as members of a community college district governing board in a county with a population of at least three million persons on the effective date of this act July 1, 2012 shall continue to serve until the expiration of their normal terms.

Sec. 6. Provisional community college districts; real property transfer

A county that received real property from the former state board of directors for community colleges may transfer title to that real property to a provisional community college district on or before January 1, 2013. A transfer conducted pursuant to this section is exempt from section 11-251, paragraph 9, Arizona Revised Statutes.

Approved by the Governor, May 11, 2010.

Filed in the Office of the Secretary of State, May 12, 2010.

AIR QUALITY

CHAPTER 315

H.B. 2133

AN ACT AMENDING SECTIONS 49-401.01, 49-405 AND 49-427, ARIZONA REVISED STATUTES; RELATING TO AIR QUALITY.

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

Section 1. Section 49-401.01, Arizona Revised Statutes, is amended to read:

§ 49-401.01. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the United States environmental protection agency.

2. "Adverse effects to human health" means those effects that result in or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, including adverse effects that are known to be or may reasonably be anticipated to be caused by substances that are acutely toxic, chronically toxic, carcinogenic, mutagenic, teratogenic, neurotoxic or causative of reproductive dysfunction.

3. "Adverse environmental effect" means any significant and widespread adverse effect which that may reasonably be anticipated on wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

4. "Arizona Grand Canyon visibility transport commission class I areas" means the following four mandatory federal class I areas in this state that were the subject of recommendations made by the Grand Canyon visibility transport commission pursuant to the clean air act:

- (a) Grand Canyon national park.
- (b) Petrified Forest national park.
- (c) Sycamore Canyon Wilderness.
- (d) Mount Baldy Wilderness.

Exhibit 5



U.S. Department of Justice
Civil Rights Division

TCH:RSB:RPL:ALP:par
DJ 166-012-3
2010-2512

*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

July 27, 2010

JUL 27 2010

SOLICITOR GENERAL'S OFFICE

Barbara A. Bailey, Esq.
Assistant Attorney General
1275 West Washington Street
Phoenix, Arizona 85007-2926

Dear Ms. Bailey:

This refers to the following voting changes for the State of Arizona, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c:

1. Section 1, Chapter 48 (HB 2261) (2010), which amends A.R.S. Section 15-1441.C., to change the terms of office for community college district board members from six years to four years, in a county with a population of at least three million persons, beginning in the next election after the effective date of the amendment;

2. Section 1, Chapter 48 (HB 2261) (2010), which amends Section 15-1441.I., to provide for two additional community college district board members, to be elected at-large, in counties with a population of at least three million persons, and provides the implementation schedule for the election of the at-large board members;

3. Section 4, Chapter 48 (HB 2261) (2010), which amends A.R.S. Section 15-1441 to provide that all persons serving as members of a community college district governing board in a county with a population of at least three million persons, as of July 29, 2010, shall continue to serve until the expiration of their normal terms;

4. Section 2, Chapter 314 (HB 2113) (2010), which amends A.R.S. Section 15-1441.C to provide that the change in the terms of office provided for in Chapter 48 will become effective on June 30, 2012;

5. Section 2, Chapter 314 (HB 2113) (2010) and amends A.R.S. Section 15-1441.I., to provide that the addition of two at-large board members as provided for in Chapter 48, will become effective on July 1, 2012;

6. Sections 3 and 4, Chapter 314 (HB 2113) (2010), which repeal and reenact A.R.S. Section 16-322, to provide that effective July 1, 2012, the minimum number of signatures

-2-

required on nomination petitions for candidates for the community college district board be equal to one-quarter of one percent of the total voter registration in the precinct, not to exceed 1,000 signatures; and

7. Section 5, Chapter 314 (HB 2113) (2010), which amends A.R.S. Section 15-1441 to provide that all persons serving as members of a community college district governing board in a county with a population of at least three million persons on July 1, 2012, shall continue to serve until the expiration of their normal terms.

We received your submission on May 28, 2010.

Insofar as the effective date of the voting change identified in Item 1, above, has been superseded by the date set forth in Item 4, above, and the voting change identified in Item 3 has been superseded by that set forth in Item 7, it would be inappropriate for the Attorney General to make a determination as to the effective dates in Items 1 and 3. Accordingly, no determination by the Attorney General is required or appropriate concerning those changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.35. In addition, for the reasons discussed below, because the implementation schedule contained in Item 2 and subsequent effective date contained in Item 5 are directly related to the adoption of the two additional proposed at-large board members for which we are requesting additional information, it would be inappropriate for the Attorney General to make a determination regarding those changes at this time. 28 C.F.R. 51.22(b).

The Attorney General does not interpose any objection to the remaining change in Item 1 and the changes affecting voting in Items 4, 6, and 7, identified above. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. 28 C.F.R. 51.41.

It is our understanding, that by virtue of the population threshold, the submitted provisions of Chapters 48 and 314 are currently only applicable to the Maricopa County Community College District, in Maricopa County, Arizona. With regard to this increase in the number of community college district board members as identified in Item 2, our analysis indicates that the information sent is insufficient to enable us to determine that the proposed change has neither the purpose nor will have the effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group, as required under Section 5. Accordingly, the following information is necessary so that we may complete our review of your submission:

1. A detailed description of the process resulting in the enactment of Chapter 48, including a chronology of its adoption that includes the following information:

a. the name, address, and daytime telephone number of the sponsors of the legislation and any other individual who was involved in proposing or advocating the proposed

-3-

change;

b. the criteria, policies, and procedures used to develop the legislation; and

c. all discussions, whether formal or informal, involving any state, county, or college district official, employee, or demographer concerning the proposed legislation;

2. A detailed explanation of the governmental interest to be served by the addition of two members to the college district board and the basis for the state's decision that this interest is better served by electing them on an at-large basis, as opposed to from single-member districts. In that regard, provide the name of any other county community college districts in the state that utilize a mixed method of election.

3. A description of the state's efforts, both formal and informal, to secure the public's views regarding the proposed change. In particular, describe the substance of any comments or suggestions received from members of the minority community, indicate the names, race, and daytime telephone numbers of the persons making comments or suggestions, and provide the state's response, if any.

4. Please provide copies of all documents that relate to the proposed increase in the number of board members including:

a. any reports, studies, analyses, summaries, or other documents or publications, prepared by or for any state, county, or college district official, staff member, or any other individual in connection with the adoption of the proposed change. Include any newspaper articles, editorials, letters to the editor, advertisements, public notices, or any other publicity that addresses the proposed change;

b. copies of any reports, studies, and analyses that discuss and/or analyze the effect, if any, that the election of these members at-large would have on the minority voting strength in the Maricopa County Community College District;

c. notes, summaries, memoranda, video and/or audio tapes, minutes, and transcripts of all events, meetings, hearings, discussions, and deliberations and debates, whether formal or informal;

d. correspondence with or between state, county, or community college district officials, staff members, or any other individual;

e. copies of public notices that describe the proposed change and/or that invite public comment or participation in the process, and a description of where such notices appeared (e.g., newspaper, radio, television, posted in public buildings, or sent to individuals or groups); and

-4-

f. copies of comments from the general public.

5. A description of, and copies of all alternative proposals, if any, (whether formal or informal proposals), including maps depicting the boundary lines of any districting plans, including total and voting age population data by race and by district that were considered or presented as an alternative to the addition of two board members, elected at-large, for the district.

a. For each such alternative plan identified, set forth the factual basis for the determination that the election of two additional board members at large better satisfied the state's intended goal and criteria;

b. If any alternative plans contained seven single-member districts, whether the state considered any information that reflected changing demographic patterns in the county since 2000.

6. Election returns, by voting precinct, within Maricopa County, for each federal, state, county, and county school board election since 1999, in which minorities have participated as candidates. For each such election, indicate:

a. the office/position sought;

b. the name and race/ethnicity of each candidate, the incumbent(s), if any, and whether the incumbent(s) was elected or appointed;

c. the total number of eligible voters, by voting precinct, and race/ethnicity;

d. the total number of voters who cast a ballot, by voting precinct, and race/ethnicity;

e. the number of votes each candidate received, by voting precinct;

f. the winner(s) and/or the candidates who went to a runoff election; and

g. current voter registration data, by race/ethnicity and by precinct, for Maricopa County, by voting district;

With regard to your responses to items 6 (c), (d), and (g), if election data by race/ethnicity are not available, please provide your best estimate of that information and the basis of that estimate.

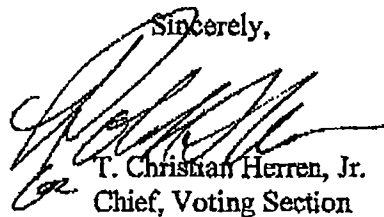
If any, or all, of the above information is available in an electronic format, it would be helpful if you provide it in that format.

-5-

The Attorney General has sixty days to consider a completed submission pursuant to Section 5. This sixty-day review period will begin when we receive the information specified above. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965 (28 C.F.R. 51.37). However, if no response is received within sixty days of this request, the Attorney General may object to the proposed changes consistent with the burden of proof placed upon the submitting authority. 28 C.F.R. 51.40 and 51.52(a) and (c). Changes that affect voting are legally unenforceable unless and until the appropriate Section 5 determination has been obtained. *Clark v. Roemer*, 500 U.S. 646 (1991); 28 C.F.R. 51.10. Therefore, please inform us of the action the state plans to take to comply with this request.

If you have any questions concerning this letter or if we can assist you in obtaining the requested information, please call Ms. Autumn Payne (202-514-6335) of our staff. Refer to File No. 2010-2512 in any response to this letter so that your correspondence will be channeled properly.

Sincerely,



T. Christian Herren, Jr.
Chief, Voting Section

Exhibit 6



Terry Goddard
Attorney General

Office of the Attorney General
State of Arizona

Direct Line (602) 542-8305
Fax (602) 542-8308

October 27, 2010

SENT VIA FACSIMILE TO: (202) 616-9514

Mr. Chris Herren
Chief, Voting Section
Civil Rights Division
Room 7254, NWB
U.S. Department of Justice
1800 G Street, N.W.
Washington, D.C. 20006

Re: Withdrawal of Submission under Section 5 of the Voting Rights Act
Ch. 48, HB 2261 (Laws 2010), §§ 1 and 4, and Ch. 314, HB 2113 (Laws 2010),
§§ 2, 5, Relating to Community College Districts

Dear Mr. Herren:

On May 28, 2010, our office submitted for preclearance by separate letters Ch. 48, HB 2261 (Laws 2010), §§ 1 and 4, and Ch. 314, HB 2113 (Laws 2010), §§ 2-5, relating to community college districts. By letter dated July 27, 2010, the Department of Justice precleared:

- HB 2261, § 1, to the extent that section changed the terms of office for community college district board members from six years to four years, in a county with a population of at least three million persons;
- HB 2113, § 2, to the extent that section amends A.R.S. § 15-1441(C) to provide that the change in the terms of office provided for in HB 2261 will become effective on June 30, 2012; and
- HB 2113, §§ 3-5.

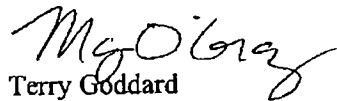
The Department also requested supplemental information regarding some of the remaining changes affecting voting contained in HB 2261 and HB 2113.

Mr. Chris Herren
October 27, 2010
Page 2 of 2

We hereby withdraw our May 28, 2010, submission of § 1 of HB 2261, regarding the effective date of that amendment and regarding that section's amendment to A.R.S. § 15-1441(I). We also withdraw the submission of § 4 of HB 2261. With regard to our May 28, 2010, submission of HB 2113, we hereby withdraw our submission of § 2 of that bill, except to the extent that section amends A.R.S. § 15-1441(C) to provide that the change in the terms of office provided for in HB 2261 will become effective on June 30, 2012.

If you have any questions regarding this matter or if you require any additional information, please contact me at your early convenience.

Sincerely,



Terry Goddard
Arizona Attorney General
Mary O'Grady
Solicitor General
Barbara A. Bailey
Assistant Attorney General

#1143190

Exhibit 7



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by THOMAS C. HORNE ATTORNEY GENERAL August 29, 2013	No. I13-008 (R13-013) Re: Effect of <i>Shelby County</i> on Withdrawn Preclearance Submissions
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To: Ken Bennett
Arizona Secretary of State

Questions Presented

You have asked for an opinion on the following questions:

1. Since the United States Supreme Court declared the coverage formula triggering preclearance obligations to be unconstitutional, are previously enacted, but not precleared statutes, valid and enforceable?
2. If the answer to the first question is yes, what are the effective dates of any such statutes that were enacted, but not precleared, and remain in the statute books?
3. What statutes are affected by this scenario?

Summary Answers

1. Yes. The statutes that were duly enacted by the Legislature are valid and enforceable.
2. The effective date for these statutes is June 25, 2013, at the earliest.

3. Six policies and statutes are affected by the preclearance withdrawals and subsequent *Shelby County* decision: (1) 2002 Citizens Clean Election Substantive Policy Statement; (2) Laws 2009 Ch. 134 (H.B. 2101); (3) Laws 2010 Ch. 48 (H.B. 2261); (4) Laws 2010 Ch. 314 (H.B. 2113); (5) Laws 2011 Ch. 105 (S.B. 1412); and (6) Laws 2011 Ch. 166 (S.B. 1471).

Background

The Voting Rights Act of 1965 (“VRA”) and its subsequent reauthorizations created a system by which certain jurisdictions were required to submit any statutory or procedural change that affected voting for preclearance prior to implementing it. The preclearance obligation, set forth in Section 5 of the VRA, shifted the burden of proof to the covered jurisdictions to demonstrate before implementing any statutory or procedural change that affected voting that such change would not have a discriminatory effect. 42 U.S.C. § 1973c. The covered jurisdictions could seek preclearance by either submitting a letter containing the requisite information to the Department of Justice (“DOJ”) or by filing a declaratory judgment action in the District Court for the District of Columbia. *See* 42 U.S.C. § 1973b; 28 C.F.R. § 51.10. Arizona and its sub-jurisdictions¹ were covered jurisdictions by the coverage formula contained within section 4(b) of the VRA.

The procedure for seeking preclearance from the DOJ is set forth in 28 C.F.R. § 51.20, *et seq.* For each voting change affecting a statewide election policy, procedure or statute, the State submitted a letter with the following information:

¹ This Opinion does not address *Shelby County*’s effect on preclearance submissions made by Arizona’s counties, cities, towns, or other sub-jurisdictions subject to preclearance. Those jurisdictions independently sought preclearance for changes in their codes, ordinances, policies, procedures, etc. that affected voting. The Arizona Attorney General did not track or monitor those preclearance submissions.

- (a) A copy of the ordinance, enactment, order, or regulation embodying the change affecting voting for which preclearance is sought;
- (b) A copy of the current voting standard, practice, or procedure that is being amended;
- (c) A statement identifying each change between the submitted regulation and the previous practice;
- (d) A statement identifying the authority under which the jurisdiction undertook the change;
- (e) The date the change was adopted;
- (f) The date on which the change takes effect;
- (g) A statement regarding whether the change has already been implemented;
- (h) A statement regarding whether the change affects less than the entire jurisdiction and an explanation, if so;
- (i) A statement of the reasons for the change;
- (j) A statement of the anticipated effect of the change on members of racial or language minority groups;
- (k) A statement identifying any past or pending litigation concerning the change or related voting practices; and
- (l) History of preclearance for the prior practice.

28 C.F.R. § 51.27. The DOJ then had sixty calendar days from the date it received the submission to interpose an objection. 28 C.F.R. § 51.9. The DOJ was also authorized to ask for additional information within that sixty-day period. 28 C.F.R. § 51.37. When the DOJ asked for additional information, a new sixty-day period would begin from the DOJ's receipt of that additional information. *Id.* A jurisdiction could withdraw a submission at any time prior to a final decision by the DOJ. 28 C.F.R. § 51.25.

Since 1967, the State has submitted approximately 773 statutes, policies, forms, and procedures affecting voting to the DOJ for preclearance. According to the Attorney General's

records, the State did not seek preclearance through court action in the D.C. district court for any proposed changes. Of those 773 submissions, only six were partially or fully withdrawn:

- (1) 2002 Citizens Clean Election Substantive Policy Statement
- (2) Laws 2009 Ch. 134 (H.B. 2101)
- (3) Laws 2010 Ch. 48 (H.B. 2261)
- (4) Laws 2010 Ch. 314 (H.B. 2113)
- (5) Laws 2011 Ch. 105 (S.B. 1412)
- (6) Laws 2011 Ch. 166 (S.B. 1471)

Those withdrawals, and the current status of the underlying laws, are discussed below.

In *Shelby County, Alabama v. Holder*, the United States Supreme Court held that Section 4(b)'s coverage formula was unconstitutional. 133 S. Ct. 2612, 2631 (2013). The Court stated that the formula "can no longer be used as a basis for subjecting jurisdictions to preclearance." *Id.*

Analysis

1. Because *Shelby County* Eliminated the Coverage Formula and Therefore Arizona's Preclearance Obligation, Duly Enacted Statutes that Were Submitted for Preclearance but Later Withdrawn Are Enforceable.

Section 5 of the Voting Rights Act prohibits the enforcement in any covered jurisdiction of any "change affecting voting" absent preclearance by a declaratory judgment or from the DOJ. 28 C.F.R. §§ 51.1, 51.10, 51.12. As set forth above, this requirement shifted the burden of proof to the State to demonstrate as a prerequisite for implementing a new statute, procedure, rule, or form, that the change did not have the purpose or effect of denying or abridging the right to vote on account of race, color, or membership in a language minority group. 28 C.F.R. §§ 51.1; 51.10.

The preclearance obligation applied only to jurisdictions covered by the coverage formula set forth in Section 4(b) of the VRA. The United States Supreme Court held that the coverage formula is unconstitutional because current circumstances do not justify it. 133 S. Ct. at 2629 (stating that in the 2006 reauthorization of the VRA, Congress kept the focus on decades-old data relevant to decades-old problems, rather than current data reflecting current needs). The Court declared Section 4(b) unconstitutional, but issued no holding on Section 5. *Id.* at 2631. The “formula in [Section 4(b)] can no longer be used as a basis for subjecting jurisdictions to preclearance,” but “Congress may draft another formula based on current conditions.” *Id.* Consequently, Arizona is presently not a covered jurisdiction subject to the preclearance obligation.

Until the *Shelby County* decision, Arizona statutes that had not been precleared were unenforceable. Other than preclearance, there was no barrier to implementing those few duly enacted statutes that had been withdrawn from preclearance consideration. Now, under *Shelby County*, the preclearance barrier is removed and such statutes are enforceable.

2. The Effective Date for the Statutes Previously Withdrawn from Preclearance Consideration Is June 25, 2013.

The general effective date for new statutes is the ninety-first day after the Legislature adjourns *sine die*. *Bland v. Jordan*, 79 Ariz. 384, 386, 291 P.2d 205, 206 (1955). Generally, the effective date for Arizona statutes subject to preclearance has been the date of preclearance or the general effective date, whichever comes later.

Under federal jurisprudence, when a court announces a rule of federal law but does not expressly state whether the decision applies prospectively only, the opinion “is properly understood to have followed the normal rule of retroactive application.” *Harper v. Virginia Dept. of Taxation*, 409 U.S. 86, 97 (1993). Retroactivity means that when a court decides a case

and applies a new legal rule to the parties before it, then the new rule must be applied “to all pending cases.” *Reynoldsville Casket Co. v. Hyde*, 514 U.S. 749, 752 (1995).

In *Shelby County*, the Court announced a new rule of law that Section 4(b)’s coverage formula is unconstitutional, but did not expressly limit that ruling to apply prospectively. 133 S.Ct. at 2631. Therefore, under *Harper*, *Shelby County* must have retroactive application.

This interpretation draws additional support from the DOJ’s own statement that it would not make preclearance determinations on any matters awaiting ruling at the time the *Shelby County* decision was issued:

With respect to administrative submissions under Section 5 of the Voting Rights Act, that were pending as of June 25, 2013, or received after that date, the Attorney General is providing a written response to jurisdictions that advises:

On June 25, 2013, the United States Supreme Court held that the coverage formula in Section 4(b) of the Voting Rights Act, 42 U.S.C. 1973b(b), as reauthorized by the Voting Rights Act Reauthorization and Amendments Act of 2006, is unconstitutional and can no longer be used as a basis for subjecting jurisdictions to preclearance under Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. *Shelby County v. Holder*, 570 U.S. ___, 2013 WL 3184629 (U.S. June 25, 2013) (No. 12-96). Accordingly, no determination will be made under Section 5 by the Attorney General on the specified change. *Procedures for the Administration of Section 5 of the Voting Rights Act*, 28 C.F.R. 51.35. We further note that this is not a determination on the merits and, therefore, should not be construed as a finding regarding whether the specified change complies with any federal voting rights law.

U.S. DOJ: Civil Rights Division: Voting Section, <http://www.justice.gov/crt/about/vot/>.

Therefore, anything that was pending evaluation by the DOJ on June 25, 2013 must be deemed effective as of that date.

But the *Reynoldsville Casket* case instructs that the retroactivity only applies to pending cases. None of the withdrawn submissions were under review at the time *Shelby County* was

issued, and therefore cannot be considered to have been pending. As such, their effective date cannot be earlier than June 25, 2013.

3. Current Status of Previously Withdrawn Preclearance Submissions

Based on a comprehensive review of the Attorney General's records, the Attorney General had withdrawn six preclearance submissions of statewide policies and statutes. The following discussion sets forth their status as of June 25, 2013.

a) *2002 Citizens Clean Election Substantive Policy Statement*

The Arizona Citizens Clean Election Commission ("CCEC") adopted the policy "Candidates Denied Approval for Funding" during its December 11, 2001 public meeting. The Attorney General's Office submitted the policy change to the DOJ for preclearance on January 11, 2002. Under this policy, a candidate who failed to submit a sufficient number of valid contribution slips was not permitted to provide a supplemental submission of additional slips. On February 28, 2002, the Attorney General submitted a letter to the DOJ withdrawing the submission because CCEC had effectively superseded the policy by promulgating a new proposed rule addressing the same subject matter. Because this policy statement has been superseded by subsequent rules embodied in the Arizona Administrative Code, the *Shelby County* decision is irrelevant to the policy's effective date.

b) *Laws 2009 Ch. 134 (H.B. 2101)*

H.B. 2101 made several amendments to the laws governing county supervisor board members. Section 1 of the bill lowered the population threshold (from 200,000 to 175,000) at which counties must have five board members and clarified the number of signatures needed for calling a special election. Section 2 provided that a county with a population exceeding 175,000 based on 2000 census data must begin the process of electing two additional supervisors at the next election and required the current applicable board(s) of supervisors to form five

supervisory districts by adopting the boundaries of five precinct boundaries. According to comments made in the minutes of the House of Representatives Committee on Government, H.B. 2101 was needed to increase county leadership in Pinal County, which had undergone significant population growth. This Attorney General submitted the law to the DOJ for preclearance on August 11, 2009.

On September 24, 2009, a group of registered voters in Pinal County sued the Pinal County Board of Supervisors, the Pinal County Recorder, the Pinal County Election Director, and Pinal County itself in a special action seeking to declare Section 2 of H.B. 2101 unconstitutional. *Robison v. Pinal County Bd. of Supervisors*, Pinal County Superior Court Cause No. S-1100-CV-200903971.

On October 13, 2009, the Attorney General received a request for more information from the DOJ with respect to Section 2 of the bill, but the DOJ precleared Section 1. On October 29, 2009, the Pinal County Superior Court indicated by minute entry that it would enter the form of judgment lodged by Plaintiffs, which stated that Section 2 of H.B. 2101 was unconstitutional and may not be implemented. Specifically, the court held the following:

Section 2 of the Legislation is void and of no effect because it is based on electoral districts that have never been precleared under Section 5 of the Voting Rights Act of 1965, 42 U.S.C. § 1973c;

Section 2 of the Legislation is void and of no effect because it is an unconstitutional special law in violation of Article 4, Part 2, § 19 of the Arizona Constitution;

Section 2 of the Legislation is void and of no effect because it requires Defendants to establish supervisory districts grossly disproportionate in population in violation of Article 2, §§ 13 and 21 of the Arizona Constitution.

In light of the disposition of that litigation, the Attorney General withdrew the submission for preclearance with regard to Section 2 of H.B. 2101. Under the superior court's decision, Section 2 of H.B. 2101 is void and *Shelby County* does not revive it.

c) *Laws 2010 Ch. 48 (H.B. 2261) 2010 Ch. 314 (H.B. 2113)*

Both Laws 2010 Ch. 48 (H.B. 2261) and Laws 2010 Ch. 314 (H.B. 2113) amended statutes related to governance of community college districts. The Attorney General submitted the two laws separately, but simultaneously, to the DOJ for preclearance, but the subsequent letter from DOJ requesting additional information and the partial withdrawal letter addressed the two bills together.

H.B. 2261 amended A.R.S. § 15-1441 regarding the term of office for board members for community college districts. Preexisting law provided for a staggering of board members from the first general election for board members was held and provided that each member's term is six years. Section 1 of H.B. 2261 changed the term of board members to four years for a county with a population of at least three million, which presently applies only to Maricopa County. This amendment was to take effect in the next election after the statute's effective date, but the effective date was amended subsequently in H.B. 2113 (*see below*). Section 1 also provided for two additional board members, to be elected at-large, in counties with a population of at least three million. At the first general election held to elect the new at-large members, the two candidates having the most votes would be declared elected. The elected member receiving the highest number of votes would serve a four-year term and the elected member receiving the next highest number of votes would serve a two-year term. Thereafter, each member's term would be four years. Sections 2 and 3 of the bill were not subject to preclearance. Section 4 provided that current board members shall continue to serve until the expiration of their normal terms.

The Attorney General submitted Sections 1 and 4 of H.B. 2261 to the DOJ for preclearance on May 28, 2010.

As noted, the DOJ responded with a request for more information that was intertwined with a request for more information on H.B. 2113, and parts of H.B. 2113 superseded parts of H.B. 2261. H.B. 2113 also made changes to the terms of office and number of members for community college district boards. Sections 1 and 6 of H.B. 2113 did not include changes affecting voting and were not submitted for preclearance. Section 2 amended A.R.S. § 15-1441(C) to provide that the change from six year terms to four-year terms would not become effective until June 30, 2012. Section 2 also provided that the addition of two at-large board members would not be effective until July 1, 2012. Sections 3 and 4 repealed A.R.S. § 16-322, which provided for the number of signatures needed for nomination petitions and replaced that statute with identical language except for A.R.S. § 16-322(a)(5), which changed the number of signatures a candidate for community college district must gather. Section 5 amended Section 4 of H.B. 2261 to clarify the effective date.

The Attorney General submitted Sections 2 through 5 of H.B. 2113 to the DOJ on May 28, 2010 for preclearance. On July 27, 2010, the DOJ responded. The DOJ did not make a determination as to H.B. 2261, Sections 1 and 4, because they were superseded by H.B. 2113, Sections 2 and 5. The DOJ also did not make a determination as to the implementation schedule set forth in H.B. 2261, Section 1 and H.B. 2113, Section 2, because they were directly related to the adoption of the two additional proposed at-large board members for which they sought additional information. The information sought included a detailed explanation of the governmental interest to be served by the addition of two members to the college district board and the basis for the state's decision that this interest is better served by electing them on an at-

large basis, as opposed to from single-member districts; a description of alternative proposals; and election returns by voting precinct within Maricopa County for each federal, state, county, and county school board election since 1999 in which minorities have participated as candidates.

On October 27, 2010, the Attorney General wrote to the DOJ summarizing its understanding of what had been precleared as follows:

- H.B. 2261, § 1, to the extent that section changed the terms of office for community college district board members from six years to four years, in a county with a population of at least three million persons;
- H.B. 2113, § 2, to the extent that section amends A.R.S. § 15-1441(C) to provide that the change in the terms of office provided for in H.B. 2261 will become effective on June 30, 2012; and
- H.B. 2113, §§ 3-5.

The Attorney General then withdrew from consideration the following:

- H.B. 2261, § 1, regarding the effective date of that amendment and regarding that section's amendment to A.R.S. § 15-1441(I).
- H.B. 2261, § 4
- H.B. 2113, § 2, except to the extent that section amended A.R.S. § 15-1441(C) to provide that the change in the terms of office provided for in H.B. 2261 would become effective on June 30, 2012.

The Legislature made no further changes to A.R.S. § 15-1441 or 16-322 relevant to this discussion.

The current version of A.R.S. § 15-1441(I) provides:

Beginning in July 1, 2012, in addition to the governing board members who are elected from each of the five precincts in a community college district, a county with a population of at least three million persons shall elect two additional governing members from the district at large. At the first general election held to elect at-large governing board members, the two candidates having the most votes shall be declared elected, if each candidate is a qualified elector who resides in that county. The elected member who receives the highest number of votes of the at-large candidates shall serve a four year term and the elected member who receives

the next highest number of votes shall serve a two year term.
Thereafter each member's term is four years.

Because *Shelby County* removed the preclearance obligation and this law has not been changed since its original passage, the effective date must be June 25, 2013 at the earliest. Therefore, the next applicable election at which time two at-large board members shall be elected is 2014. Candidates seeking to run for that office must therefore comply with A.R.S. § 16-322(A)(5)(b) and all other applicable election statutes. The current members of the applicable community college district boards will continue to serve the remainders of their respective terms.

d) Laws 2011 Ch. 105 (S.B. 1412)

Senate Bill 1412 created new security requirements for early ballots and required photo identification from persons who deliver more than ten early ballots to an election official. Section 1 amended A.R.S. § 16-545 by requiring election officers to ensure that return envelopes for early ballots are tamper evident when properly sealed. Section 2 amended A.R.S. § 16-547 by requiring election officials to provide instructions to voters that early ballots should be returned in the tamper evident envelope enclosed with the ballot and to include a warning that it is a felony to receive or offer compensation for a ballot. Section 3 amended A.R.S. § 16-1005 by including new language to make it a felony to mark a voted or unvoted ballot or ballot envelope with intent to fix an election. Section 3 also added new subsections B through H to A.R.S. § 16-1005 regarding additional forms of ballot abuse and classification for those violations as felonies. Subsection D required a person who delivers more than ten early ballots to provide a copy of his or her photo identification to the election official.

The Attorney General submitted the bill for preclearance on May 18, 2011. On June 27, 2011, the DOJ precleared all of the sections except Subsection D, which created A.R.S. § 16-

1005(D) regarding the requirement to provide a photo identification when delivering more than ten early ballots. As to that section, the DOJ asked for more information, including how that proposed provision was expected to serve the state interest and whether any alternative measures had been considered; a list of the acceptable photographic identification; and a detailed description of the statewide report that would be posted on the secretary of state's website regarding such individuals who did deliver more than ten early ballots. The Attorney General withdrew the submission regarding Subsection D on August 4, 2011. In 2012, the Legislature amended A.R.S. § 1005 by repealing that subsection. 2012 Ariz. Session Laws Ch. 361, § 22. Therefore, *Shelby County* has no effect on the validity of this provision.

e) Laws 2011 Ch. 166 (S.B. 1471)

In 2011, S.B. 1471 made changes to a number of election-related statutes. Section 1 amended A.R.S. § 16-248 to increase the minimum number of active registered voters needed to allow precincts to conduct the presidential preference primary by mail from two hundred to three hundred. Section 2 amended A.R.S. § 16-531 regarding the number of clerks of election a board of supervisors may appoint. Section 3 repealed the language set forth in A.R.S. § 16-547(A) for the affidavit contained on an early ballot envelope and added new language. The new language provided that the declaration is provided under penalty of perjury, that the voter is a registered voter in the county, and that the voter has not voted in any other county or state. The new language also indicates whether the voter was assisted and provides blanks for the signature and address of the assistant. Section 4 amended A.R.S. § 16-580(G), prohibiting candidates and persons who have been employed by or volunteered for a candidate, campaign, political organization or political party from assisting voters in voting. Section 5 of the bill added a requirement that a new political party seeking recognition must obtain signatures from voters in at least five different counties, and at least ten percent of the required total shall be registered in

counties with populations under 5,000. Section 6 amended the signature requirements of A.R.S. § 16-803 regarding recognition of a new political party.

The Attorney General submitted the bill to the DOJ for preclearance on June 15, 2011. The DOJ sent a letter on August 15, 2011 that precleared all but Section 4 (A.R.S. § 16-580(G)) of the bill. As to that section, the DOJ requested additional information, including the following:

A detailed description of the manner in which the prohibition will be implemented including,

a. the minimum amount of time, if any, that an individual may be employed by or volunteer for one of the prohibited entities that will preclude them from providing any assistance to a voter;

b. whether for those individuals whose ineligibility is based on volunteering for an entity that exists for more than a single election cycle, such as a political party, that the resulting ineligibility for the individual similarly extends beyond the date of the election;

c. whether the proposed prohibition on providing assistance will be applicable to those individuals who also serve as employees in county offices or as poll workers on election day; and

d. any guidance that the state has issued concerning the manner in which it will implement this prohibition, including enforcement at the polling places or in county offices.

On October 4, 2011, the Attorney General withdrew the preclearance submission regarding Section 4 of S.B. 1471 regarding amendments to A.R.S. § 16-580(G). The Legislature amended A.R.S. § 16-580 in 2012 to remove the language at issue. 2012 Ariz. Session Laws Ch. 361, § 13. That version was precleared on July 19, 2012.

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Conclusion

The *Shelby County* decision removed the preclearance obligation by holding the coverage formula unconstitutional. Therefore, any duly enacted state statutes that had not been precleared or repealed are deemed valid and enforceable. The effective date of such statutes is the date of the *Shelby County* decision, June 25, 2013. This Opinion does not address the effect of *Shelby County* on the enforceability of any laws, policies, or procedures enacted by the counties, cities, towns, or other jurisdictions subject to the preclearance obligation.

Of the preclearance submissions withdrawn by the Attorney General, only the amendments to A.R.S. §§ 15-1441 and 16-322 are affected by the *Shelby County* decision. Those sections provide for two new at-large members of community college districts in counties with a population of at least three million people. Those two new at-large board members must be elected during the 2014 election.

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