GAR CLERK SI 6/21/20 BY: ALAN

Dennis P. McLaughlin Principal Assistant City Attorney for Jennifer Stash Senior Assistant City Attorney Michael G. Rankin 3 CITY ATTORNEY P.O. Box 27210 4 Tucson, AZ 85726-7210 Telephone: (520) 791-4221 5 Fax: (520) 623-9803 Dennis McLaughlin@tucsonaz.gov State Bar No. 9197 6 Pima County Computer No. 37748 Jennifer Stash@tucsonaz.gov State Bar No. 29848 Pima County Computer No. 124942 8 Attorney for Defendants Roger Randolph, City of Tucson ("hereafter City Defendants")

IN THE SUPERIOR COURT OF THE STATE OF ARIZON

#### IN AND FOR THE COUNTY OF PIMA

GREEN PARTY OF PIMA COUNTY.

No. C20192885

13

9

10

11

12

14 VS.

15 16

17

18

19

20 21 22

23 24

25

26 27 28

Plaintiff.

ROGER RANDOLPH in his official RELIEF, INJUNCTIVE REI capacity; CITY OF TUCSON,

Defendants.

CITY DEFENDANT ANSWER TO PLAINT COMPLAINT FOR DECLA SPECIAL ACTION

(Assigned to Hon. D. Douglas

COMES NOW, Defendants Roger Randolph and City of Tucson ("her Defendants") through undersigned counsel, hereby answers Plaintiff's Compl Declaratory Relief, Injunctive Relief, and Special Action (SAC) as follows:

## PETITION FOR SPECIAL ACTION & COMPLAINT FOR DECLA

### AND INJUNCTIVE RELIEF

### PRELIMINARY STATEMENT

1. Answering paragraph 1, City Defendants assert that this is a legal argu conclusion, not a statement of fact that requires an answer, but in any event de allegation(s) of Paragraph 2.

14 15

17

18

19

21

23

26

28

#### JURISDICTION AND VENUE

- Answering paragraph 2, City Defendants assert that this is a legal argu conclusion, not a statement of fact that requires an answer, but in any event de allegation(s) of Paragraph 2.
- 3. Answering paragraph 3, City Defendants assert that this is a legal argueonclusion, not a statement of fact that requires an answer, but in any event deallegation(s) of Paragraph 3.
- 4. Answering paragraph 4, City Defendants assert that this is a legal argu conclusion, not a statement of fact that requires an answer, but in any event de allegation(s) of Paragraph 4.
- Answering paragraph 5, City Defendants admit that the Complaint seel relief authorized by A.R.S. § 12-1801 et seq., but deny that Petitioner is entitl such relief.
- 6. Answering paragraph 6, City Defendants admit that the Complaint seel declaratory relief authorized by A.R.S. § 12-1831, et seq., but deny that Petiti entitled to any such relief.
  - 7. Answering paragraph 7, City Defendants admit the allegations.
- Answering paragraph 8, City Defendants admit that venue is proper in and deny the remainder of Paragraph 8.

#### PARTIES

- 9. Answering paragraph 9, City Defendants admit the allegations.
- 10. Answering paragraph 10, City Defendants admit that the City of Tucsc city and municipal corporation under the Constitution and laws of Arizona.
  - 11. Answering paragraph 11, City Defendants admit the allegations.
  - 12. Answering paragraph 12, City Defendants admit the allegations.
  - 13. Answering paragraph 13, City Defendants admit the allegations.
  - 14. Answering paragraph 14, City Defendants admit the allegations.

17

18 19

21 22

24 25

26 27 28

#### STATEMENT OF FACTS

- 15. Answering paragraph 15, City Defendants admit the allegations.
- 16. Answering paragraph 16, City Defendants admit the allegations.
- 17. Answering paragraph 17, City Defendants admit the allegations.
- 18. Answering paragraph 18, City Defendants admit the allegations.
- 19. Answering paragraph 19, City Defendants are without sufficient inforr admit or deny the allegations, and therefore deny them, and specifically deny the allegations are true, the signers subjective belief or intent could create rigl Green Party that are inconsistent with the provisions of the relevant governing statutes.
  - 20. Answering paragraph 20, City Defendants admit that the language quo Plaintiff in paragraph 18 of the Complaint also appears in A.R.S. § 16-801, ar remainder of Paragraph 20.
    - 21. Answering paragraph 21, City Defendants admit the allegations.
    - 22. Answering paragraph 22, City Defendants admit the allegations.
    - 23. Answering paragraph 23, City Defendants admit the allegations.
    - 24. Answering paragraph 24, City Defendants admit the allegations.
    - 25. Answering paragraph 25, City Defendants admit the allegations.
    - 26. Answering paragraph 26, City Defendants admit the allegations.
  - 27. Answering paragraph 27, City Defendants are without sufficient it admit or deny the allegations, and therefore deny them. City Defendants spe that, even if the allegations are true, the signers subjective belief, intent, or a create rights in the Green Party that are inconsistent with the provisions of governing Arizona statutes, or that could eliminate the need for compliant statutes.
    - 28. Answering paragraph 28, City Defendants are without sufficient inforr

16 17

18

19 20

21

24 25 26

28

#### STATEMENT OF FACTS

- 15. Answering paragraph 15, City Defendants admit the allegations.
- 16. Answering paragraph 16, City Defendants admit the allegations.
- 17. Answering paragraph 17. City Defendants admit the allegations.
- 18. Answering paragraph 18. City Defendants admit the allegations.
- 19. Answering paragraph 19. City Defendants are without sufficient inforr. admit or deny the allegations, and therefore deny them, and specifically deny the allegations are true, the signers subjective belief or intent could create right Green Party that are inconsistent with the provisions of the relevant governing statutes.
- 20. Answering paragraph 20, City Defendants admit that the language quo Plaintiff in paragraph 18 of the Complaint also appears in A.R.S. § 16-801, at remainder of Paragraph 20.
  - 21. Answering paragraph 21, City Defendants admit the allegations.
  - 22. Answering paragraph 22, City Defendants admit the allegations.
  - 23. Answering paragraph 23. City Defendants admit the allegations.
  - 24. Answering paragraph 24. City Defendants admit the allegations.
  - 25. Answering paragraph 25, City Defendants admit the allegations.
  - 26. Answering paragraph 26. City Defendants admit the allegations.
- 27. Answering paragraph 27, City Defendants are without sufficient is admit or deny the allegations, and therefore deny them. City Defendants spe that, even if the allegations are true, the signers subjective belief, intent, or i create rights in the Green Party that are inconsistent with the provisions o governing Arizona statutes, or that could eliminate the need for complian statutes.
  - 28. Answering paragraph 28. City Defendants are without sufficient inforr

	И	в	a
2	I		a
3	۱		C
1	١		
5	١		
6			-
7			
8			
9		I	
0		۱	
11		۱	
12			
13			ı
14		١	
1.5	5		١
10			۱
1			۱
1			
1			
2	0	ı	۱

22

23

24

25

26 27 28 admit or deny the allegations, and therefore deny them. City Defendants spethat, even if the allegations are true, the signers subjective belief, intent, or a create rights in the Green Party that are inconsistent with the provisions of governing Arizona statutes, or that could eliminate the need for complian statutes.

- 29./Answering paragraph 29, City Defendants admit the allegations.
- 30. Answering paragraph 30, City Defendants admit the allegations.
- 31. Answering paragraph 31, City Defendants admit the allegations.

#### COUNT ONE:

# SPECIAL ACTION PURSUANT TO A.R.S. § 12-2021 AND THE AJ RULES OF SPECIAL ACTION

- 32. Answering paragraph 32, City Defendants deny the allegations.
- 33. Answering paragraph 33, City Defendants deny the allegations.
- 34. Answering paragraph 34, City Defendants deny the allegations.
- 35. Answering paragraph 35, City Defendants deny the allegations.
- 36. Answering paragraph 36, City Defendants deny the allegations.
- 37. Answering paragraph 37, City Defendants deny the allegations.
- 38. Answering paragraph 38, City Defendants deny the allegations.

#### COUNT TWO:

#### INJUNCTIVE RELIEF

- 39. Answering paragraph 39, City Defendants deny the allegations.
- 40. Answering paragraph 40, City Defendants deny the allegations.
- 41. Answering paragraph 41, City Defendants deny the allegations.

#### COUNT THREE:

#### DECLARATORY RELIEF

42. Answering paragraph 42, City Defendants deny the allegations.

3 4

5 6 7

9 10

11

12 13 14

16

15

18 19 20

22

21

24

26 27 28

#### I. GENERAL DENIAL

City Defendants' deny each and every allegation of Plaintiff's Complaint:

#### II. AFFIRMATIVE DEFENSES

City Defendants' for their affirmative defenses to the Complaint of Pla follows:

Plaintiff's Complaint is barred by laches.

Plaintiff's Complaint fails to state a claim upon which relief can be grante
City Defendants' allege that they are without knowledge or information st
form a belief as to all the affirmative defenses which may become available
progresses, and therefore assert all affirmative defenses available pursuar
Rules of Civil Procedure, Rules 8 and 12; A.R.S. § 12-820, et seq.; and, A.F.
et seq., and any further defenses raised by disclosure or discovery, as if such
set forth specifically herein.

#### REQUEST FOR RELIEF

WHEREFORE, City Defendants/Respondents request the following:

- 1. That this Court exercise its discretion to decline jurisdiction; or
- That if it accepts jurisdiction, it dismiss Petitioner's Petition: (a)
  laches and therefore untimely; or (b) for failure to state a claim
  relief can be granted [ARCP 12(b)(6)]; or (c) for both those reasons:
- If it accepts jurisdiction and does not dismiss Petitioner's Petition both the reasons set forth in Number 2 above, it nonetheless rejection on the merits and deny Petitioner any mandamus, desinjunctive relief whatsoever.
- 4. That Plaintiff takes nothing by its Complaint;
- 5. That Plaintiff not be awarded any attorney fees or costs.
- That Defendants be awarded their costs of litigation includis reasonable attorney's fee;

 That the Court awards such other and further relief as it may d proper.

DATED: June 21, 2019.

MICHAEL G. RANKIN City Attorney

By: /s/ Dennis P. McLaugh Dennis P. McLaughlir Principal Assistant Cit

PDF of the foregoing electronically filed and and served this 21<sup>st</sup> day of June, 2019 with:

Turbo Court/Pima County Superior Court

Copy of the forgoing mailed this 21st day of June 2019 to:

Paul J. Gattone 301 S. Convent Ave. Tucson, Arizona 85701-2214 Attorney for Plaintiff

By /s/ D. Grijalva

Dennis P. McLaughlin 1 Principal Assistant City Attorney Jennifer Stash 2 Senior Assistant City Attorney for Michael G. Rankin CITY ATTORNEY BY: J. OPR. DEPUTY P.O. Box 27210 4 Tucson, AZ 85726-7210 Telephone: (520) 791-4221 5 Fax: (520) 623-9803 Dennis McLaughlinia tuesonaz gov State Bar No. 9197 6 Pima County Computer No. 37748 Jonnifer Stashie tucsonar gov 7 State Bar No. 29848 Pima County Computer No. 124942 Attorney for Defendants 8 9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 10 IN AND FOR THE COUNTY OF PIMA 11 GREEN PARTY OF PIMA COUNTY. No. C20192885 12 RESPONSE TO COMPLAINT FOR Plaintiff. 13 DECLARATORY RELIEF. INJUNCTIVE RELIEF, AND SPECIAL VS. 14 ACTION 15 ROGER RANDOLPH, in his official capacity; CITY OF TUCSON, 16 (Assigned to Hon. D. Douglas Metcalf) Defendants. 17 Pursuant to this Court's Order at the Scheduling Conference on June 13, 2019. 18 Defendants Roger Randolph (City Clerk) and the City of Tucson make the following 19 Response to Plaintiff's Complaint seeking mandamus, declaratory, and injunctive relief: 20 **Key Supplemental Facts** 21 Key supplemental facts are contained in the Declaration of Roger W. Randolph. filed as Exhibit U to this Response, and incorporated by this reference.

## Point One

23

24

26

27

28

## Plaintiff's action is barred by laches.

"Laches is an equitable doctrine based on the principle of fundamental fairness." League of Arizona Cities & Towns v. Martin, 219 Ariz. 556, 560, § 13, 201 P.3d 517, 521 (2009). It is a form of estoppel that applies when the party seeking to assert the defense can

show that because of a delay, it was injured or changed its position in reliance on the other party's inaction. In re Paternity of Gloria, 194 Ariz. 201, 203–04, ¶ 13 (App. 1998). The delay must be unreasonable under the circumstances. Flynn v. Rogers, 172 Ariz. 62, 66 (1992). This defense is often raised in election cases due to their time-sensitive nature. Prutch v. Town of Quartzsite, 231 Ariz. 431, 435, ¶ 13 (App. 2013), as amended (Feb. 26, 2013). "A defendant must not only prove that a plaintiff's delay prejudiced the defendant, the court, or the public, but also that the plaintiff acted unreasonably." Id.

The Arizona Supreme Court has repeatedly cautioned over the last 25 years that litigants with election challenges should bring those actions in a timely manner or their requests will be denied on the basis of laches. See Sotomayor v. Burns. 199 Ariz. 81, 83, ¶ 9 (2000) ("We repeat our caution that litigants and lawyers in election cases must be keenly aware of the need to bring such cases with all deliberate speed or else the quality of judicial decision making is seriously compromised.") (quotation marks and citation omitted); Harris v. Purcell. 193 Ariz. 409, ¶ 15 (1998) ("In election matters, time is of the essence because disputes concerning election and petition issues must be initiated and resolved, allowing time for the preparation and printing of absentee voting ballots.") (citations omitted); Mathieu v. Mahoney, 174 Ariz. 456, 458, (1993) ("Special interest groups and the lawyers who represent them are aware of the difficult time pressures involved in ballot litigation. They have an affirmative duty to bring their challenges as early as practicable.").

When considering the laches defense, courts are tasked with analyzing a plaintiff's justification for delay, including when a plaintiff first became aware of the facts underlying its claim, to determine whether a plaintiff's decision to delay filing the lawsuit was unreasonable. *Purcell*, 193 Ariz. at 412, ¶ 16. The laches defense is specifically directed to a plaintiff's "dilatory conduct" and will bar a claim if plaintiff's delay in filing an action prejudices the opposing party or the administration of justice. *Lubin v. Thomas*, 213 Ariz. 496, 497 ¶ 10 (2006).

Disputes involving elections "must be initiated and heard in time to prepare the ballots for absentee voting to avoid rendering an action moot." Kromko v. Super. Ct. In & For Cty. of Maricopa, 168 Ariz. 51 (1991). And for election cases in particular, prejudice is determined by the extent to which a court's quality of decision making has been compromised by plaintiff's delay for matters of great public importance. Mathieu. 174 Ariz. at 460. Waiting until the last minute to file an election challenge "places the court in a position of having to steamroll through the delicate legal issues in order to meet the deadline for measures to be placed on the ballot." Id. at 459, 851 P.2d at 84. Prejudice is also determined by considering the question of fairness to all concerned: those raising an election-related challenge, those sponsoring a ballot measure, the citizens who sign petitions, the election officials, and of course the voters of Arizona. Burns, 199 Ariz. at 83.

Plaintiff admits that it knew by mid-January 2019, through conversations with the City Clerk's Office, that it would need to recertify through either voter registration (A.R.S. § 16-804(B)) or petition (A.R.S. § 16-802) in order to appear on the ballot for the City's 2019 election cycle. Complaint (¶ 29, 30), (Exhibit A). Plaintiffs were told of the March 25, 2019 deadline (155 days before the primary) for maintaining qualification through voter registration. Armed with this knowledge, Plaintiff decided to file no petition and not to meet the March 25, 2019 deadline for maintaining qualification through voter registration.

On April 9, 2019, Defendant Roger Randolph issued a memo listing those political parties that *did* qualify to be placed on the ballot; the Democratic Party, the Republican Party and the Libertarian Party. (Exhibit B). Predictably, Plaintiff was not listed because Plaintiff failed to take the steps required to be included.

The City Clerk's Office also had deadlines applicable here. The Nomination Paper and Declaration of Qualifications of Eligibility, Financial Disclosure Statement and Nomination Petitions were due for submission from April 29 through May 29, 2019 at 5 p.m. (Exhibit D). By the time of this deadline, Plaintiff had again taken no steps to comply

and had not even communicated the names of any potential Green Party candidates to the City Clerk's Office.

1 2

A primary reason for the City's deadlines is to allow the City Clerk's Office sufficient time to have ballots printed and to allow for the timely preparation of educational information for the voters. Ninety days prior to an election, postcards are sent to all eligible voters informing them of the upcoming election. (Exhibit D). If a voter is registered as Independent or in a party that that did not qualify to be on the ballot, as is the case for members of Plaintiff's party, they receive a specific postcard directed to that circumstance. Recipients of this special postcard are given the option to select a partisan ballot for the upcoming primary election. (Exhibit E). These particular postcards were mailed on May 29, 2019. Voters have since relied on those postcards by responding to them with requests for partisan ballots.

It is also the practice of the City Clerk's Office to mail a "Choice Is Yours" pamphlet to each registered voter in the City of Tucson. These pamphlets include information about the upcoming election, where to find information about each candidate and a sample ballot. The pamphlets are tailored to each party and ward. For example, a voter in Ward 1 will receive a pamphlet with information and a sample ballot for the primary election in his/her specific geographic region, voters in Ward 4 would receive a pamphlet showing candidates qualified in their region, and so on. The pamphlet is meant to provide voters with the education and tools they need to vote in the upcoming election and ensures that voters are informed about when and how to vote. These booklets have not yet been mailed but have been drafted and are ready to be printed. Currently, Plaintiff is not included in this booklet because Plaintiff missed all deadlines and failed to take any of the steps required for inclusion.

The ballots for the primary election have also already been ordered and printed. The ballots for all registered parties are typically ordered all at once and done to provide enough time to prepare and mail out to voters. Due to the pending action, Defendants have put in a rush order to include Plaintiff to be prepared for whatever the result of this

litigation is. Exhibit U [Roger W. Randolph Declaration], ¶ 20. This was done at a significant expense to Defendants.

In summary, Plaintiff knew all of the steps it needed to take, and was informed of all applicable deadlines for acting, in order to qualify for inclusion on the City of Tucson ballots in this 2019 election cycle Plaintiff did not comply, missed every deadline, and waited until June 12, 2019 to file the current action. This was plainly unreasonable and, at this late juncture, the disruption of this election cycle would come at great cost to Defendants and the voters of the City of Tucson. Assuming arguendo that Plaintiff did not agree with Defendants' position on the statutes requiring it to recertify as a political party, Plaintiff offers no reason that would reasonably explain why it decided until now to complain about it in Court. Due to Plaintiffs delay, voters registered as Independent and those registered as Green Party have elected which ballot to receive. These voters have made critical decisions as to which ballot and which party they wish to vote for during this upcoming primary election. The prejudice to these citizens is great and one that could have been prevented had Plaintiff chosen to initiate this action at a sooner date. But here, the prejudice has been done and, thanks to Plaintiff, these voters' choices have been limited.

Plaintiff's dilatory after-thought of a lawsuit should be barred by laches.

#### Point Two

The City's mistaken inclusion on its Petition for Political Party Recognition of language intended for use by political parties wishing to qualify for the statewide ballot under A.R.S. § 16-801 is not determinative here. Plaintiff must comply with A.R.S. §§ 16-802 and 16-804, the statutes governing qualification of political parties for the City's ballot.

Defendants acknowledge that the Petition for Political Party Recognition provided by the City Clerk to Plaintiff (filed by Plaintiff in 2017), contains pre-printed language stating: "A new political party is entitled to representation as a political party on the official ballot through the next two regularly scheduled general elections for federal office immediately following recognition of the political party." This language was mistakenly petition from the Arizona Secretary of State's Office. The Secretary of State's form of petition is intended for use by parties seeking statewide ballot qualification under A.R.S. § 16-801 and includes language from that statute.

1 2

The City Clerk's Office mistakenly did not remove the quoted language before giving it to Plaintiff. Defendants regret that error, but it is not determinative here, because that language from A.R.S. § 16-801 has no application to qualification of political parties for the City's ballot. Such local qualification is governed solely by A.R.S. §§ 16-802 and 16-804, neither of which contain that language. Whatever the City Clerk's form of petition mistakenly may have said, it was the latter two statutes that govern, and with which Plaintiff needed to comply as a matter of law.

"[I]t is the [Plaintiff's] responsibility to comply with the statutory requirements...
and the receipt of erroneous advice, even from governmental officials responsible for administering the...process, does not excuse that responsibility." Fidelity National Title
Co., Inc. v. Town of Marana, 220 Ariz. 247, 250, ¶ 14 (App. 2009). Accord Arrett v.
Bower, 237 Ariz. 74, 80, ¶ 19 (App. 2015) (quoting Fidelity National Title); Robson Ranch
Mountains, L.L.C. v. Pinal County, 203 Ariz. 120, 130, ¶ 38 (App. 2002) (Plaintiffs
"receipt of or reliance on inaccurate advice from a county elections director does
not...excuse noncompliance with the statutory requirements"). See also Perini Land and
Development Co. v. Pina County, 170 Ariz. 380, 381 (1992) (county elections director's
inaccurate advice about number of signatures needed for referendum did not excuse or
justify filing petition with insufficient number of valid signatures).

Nor can Plaintiff attempt to rely on estoppel here, "Generally...estoppel does not apply against the state in matters affecting governmental function." *Green v. Osborne*, 157 Ariz 363, 365 (1988) (state not estopped from cancelling Mecham recall election). "Nor

The Arizona Secretary of State's form of petition is attached as Exhibit E and can also be viewed directly at the Secretary of State's website: https://azsos.gov/sites/default/files/new political party recognition petition 0.pdf

15 16 17

14

18 19 20

21 22 23

24 25

26 27 28 may the state be estopped by the unauthorized acts of its officers or employees." *Id.*Estopped only applies to the government "if the government's wrongful conduct threatens to work a serious injustice and if the public interest would not be unduly damaged by the imposition of estoppel." *Carlson v. Arizona Dept. of Economic Sec.*, 184 Ariz. 4, 6 (App. 1995).

Estoppel does not apply here, for at least three reasons. First, inadvertance or mistake, as occurred here, is not wrongful conduct. *Id.* at 6. Second, there is no "serious injustice" in not placing the Green Party on the ballot when it failed to meet the statutory requirements for being there. Finally, the public interest would very much be damaged by the imposition of estoppel to allow illegal ballot participation by the Green Party in this situation. Just as "the state is not estopped from cancelling an illegal election," *Green*, 157 Ariz. at 366, so the City is not estopped from preventing the illegal participation of a party in an election.

On top of all this, Plaintiff has no factual basis to claim either mistaken advice or estoppel in the first place. It is undisputed that the City Clerk's Office made Plaintiff aware that it could not rely on the mistaken petition language, and would need to comply with statutory requirements, well before any statutory deadlines for action by Plaintiff in 2019 had actually passed. Plaintiff simply chose not to take any timely action.

#### Point Three

The statutory history of A.R.S. §§ 16-801 and 16-802 contradicts any claim that the
2011 amendment to A.R.S. § 16-801 had any effect on parties' local ballot
qualification under A.R.S. § 16-802.

If Plaintiff wishes to prevail here, it must show that as a matter of law, A.R.S. § 16-801's language somehow applies to its qualification for the local ballot. Given the statutory history of A.R.S. §§ 16-801 and 16-802, Plaintiff cannot make that showing.

Since just after statehood, Arizona has had provisions governing how parties can qualify for, and once qualified, remain on, statewide and local election ballots. During its first special session (May 23 to June 22, 1912), the Legislature enacted Chapter 84, § 7

(Exhibit F), which, in one statute, incorporated three separate and distinct provisions governing political party qualification for and representation on election ballots (highlighted here in distinct colors for emphasis):

Any political organization, which, at the last preceding general election shall have cast five per cent (5%) of the total vote in the State for its candidates, (or in a subdivision thereof, in which a candidate seeks nomination of such political organization for a local or county office) shall be entitled to representation on the official ballot as a political party, and, whenever a petition signed by a number of qualified electors equal to at least two per cent (2%) of the votes cast for Governor at the last preceding general election in at least each of five (5) counties of the State, shall be filed with the Secretary of State and certified to by any affidavit of ten (10) well known, reputable, qualified electors of the State, asking that the signers thereof be recognized as a new political party, they shall be so recognized and such party shall be represented by an official ballot at the ensuing primary election and the succeeding general election. The same privilege shall inture to Plantiffs within a county, or a city or town, as to county, city, or town primary elections, provided that said petition shall be filed with the Clerk of the Board of Supervisors or the City or Town Clerk as the case may be, and signed by a number of Plaintiffs equal to at least three por cent (3%) of the total vote of such county, city, or town, as the case may be, at the preceding regular general election for the several candidates for County Attorney or Mayor, as the case may be, distributed throughout at least one-fourth of the election precincts of such county, city, or town, as the case may be Provided that such petitions as are provided for in this section shall be filed not more than Sixty (60) Days and not less than Thirty (30) Days preceding the primary election.

#### Laws 1912, 1" S.S., Ch. 84, § 7.

2

3

5

6

8

9

11

13

14

15

16

18

19

20

21

24

25

26

28

The gray highlighted material delineated how a party already qualified for either a statewide or more local ballot could remain qualified for that ballot. The yellow highlighted material delineated how a new party could qualify (or requalify) for the statewide primary and general election ballot. The turquoise highlighted material delineated how a new party could qualify (or requalify) for a county, city, or town ballot.

In all subsequent versions of the Arizona statutes enacted or codified up until 1956, these three provisions continued to be contained in one statute, in the same order, with essentially the same language, but also just as separate and distinct in their substantive focus and requirements as in the initial 1912 enactment. 1913 Civil Code § 3016 (Exhibit G): 1928 Revised Code § 1278 (Exhibit H): 1939 A.C.A. § 55-1006 (Exhibit I).

Eventually, the provisions' codification began to better reflect their separateness of subject matter. In 1947, the three provisions formally became subsections (a), (b), and (c), respectively of 1939 A.C.A. § 55-1006. Laws 1947, Ch. 97, § 1 (Exhibit J).<sup>2</sup> And when the current A.R.S. was enacted nine years later in 1956, these three subsections became three separate statutes. 1956 A.R.S., Title 16, Ch. 2, Art. 1 (Exhibit K). Automatic retention of an already qualified party on the ballot at either the state or local level through sufficient voter participation at an election (gray highlight in the original statute) became A.R.S. § 16-201 [now A.R.S. § 16-804]. The new party petition process for qualification or requalification at the state level (yellow highlight in the original statute) became A.R.S. § 16-202 [now A.R.S. § 16-801]. The new party petition process for qualification or requalification at the county or local level (turquoise highlight in the original statute) became A.R.S. § 16-203 [now A.R.S. § 16-802].

п

The statutes' separate focus and subject matter has continued to be reflected in how the Legislature has proceeded when it wished to amend one or more of them. Four key examples are particularly instructive for this Court in this case:

1. In 1970, the requirement that a new party petitioning for statewide qualification had to file petitions from "at least each of five (5) counties" was eliminated from A.R.S. § 16-202 [now A.R.S. § 16-801]. Laws 1970, Ch. 151, § 17 (Exhibit L). For statewide qualification, there now needed to be only one statewide petition with signatures equal to 2% of the vote for Governor at the last preceding general election. However, the Legislature did not correspondingly amend the requirements for new parties petitioning for local ballot qualification under A.R.S. § 16-203 [now A.R.S. § 16-802]. Rather, local petitions for qualification still had to have signatures distributed throughout at least one-fourth of the election precincts of the county, city, or town, just as they had had to since 1912 and still do now. *No one ever assumed or argued that the amendment of the* 

<sup>&</sup>lt;sup>2</sup> That same 1947 amendment changed the law to require that for petitions for new party qualification at state level, certification of the petitions by the county recorder of each county was now required, not merely affidavits from 10 electors within the county.

statewide requirements in what is now A.R.S. § 16-801 had somehow affected the unchanged local requirements in what is now A.R.S. § 16-802.

я

2

4 5

6

8

9

11

12

13

14

16

18

19

20

23

24

25

26

27

28

2. In 1979, existing A.R.S. §§ 16-201 through 203 were repealed and reenacted as A.R.S. §§ 16-804 (continued representation on ballot by already qualified party), 16-801 (petition for statewide qualification by new party), and § 16-802 (petition for local qualification by new party), respectively. Laws 1979, Ch. 209, § 3 (Exhibit M). In reenacting A.R.S. § 16-201 as new A.R.S. § 16-804, the Legislature also amended it to create an alternative method for a party already qualified for the ballot at either the state or local level to automatically remain on the ballot. Now, in addition to the party automatically continuing on the ballot by having 5% voter participation at the last preceding general election for governor or presidential electors,3 county attorney, or mayor, as applicable (A.R.S. § 16-804(A)), the party could also automatically remain on the ballot if its party voter registration within the particular jurisdiction at a specified date equaled at least 1% of the total voter registration within the jurisdiction. To make clear that this alternative method applied to both statewide and local petitions, the Legislature codified the provision as a new subsection (B) to A.R.S. § 16-804, the statute whose provisions had historically always applied at both the state and local level.

3. In 1991, the Arizona Legislature reduced the signature requirement for new party qualifying petitions at the state level in A.R.S. § 16-801 from 2% to 1 1/3% of the vote for governor or presidential electors, and for new party qualifying petitions at the local level in A.R.S. § 16-802 from 3% to 2% of the vote for county attorney or mayor.<sup>4</sup>

<sup>&</sup>lt;sup>3</sup> The version of A.R.S. § 16-801 enacted in 1979 allowed the two percent signature requirement for statewide qualification petitions to be based on the vote for either governor or for presidential electors. Laws 1979, Ch. 209, § 3. In 2006, A.R.S. § 16-801 was amended to once again require that the petition be based on the vote at the most recent general election for Governor. Laws 2006, Ch. 44, § 13. Note, however, that under 16-804(A), a 5% party vote for presidential electors can still be used to maintain a party's qualification for the statewide ballot.

<sup>&</sup>lt;sup>4</sup> The party voter registration maintenance requirement of A.R.S. § 16-804(B) was also reduced from 1% of the total registered voters in the jurisdiction to 2/3 of 1%. Laws 1991, 3<sup>rd</sup> S.S., Ch. 3, § 3.

Laws 1991, 3rd S.S., Ch. 3, §§ 1-2 (Exhibit N). Because the Arizona Legislature wished to make changes to both statutes, it expressly amended both of them.

п

4

7

8

9

10

12

13

15

16

17

18

19

24

25

26

28

4. In 2011, the Arizona Legislature enacted two bills that amended A.R.S. § 16-801. Laws 2011, Ch. 166, § 5 (Exhibit O); Laws 2011, Ch. 332, § 15 (Exhibit R). The amendments to the statewide petition qualification process involved a tradeoff. A statewide petition for qualification now not only needed signatures equivalent to 2% of the vote for governor, but also had to meet two other requirements: (1) signatures from at least five different counties: and (2) at least 10% of its signatures from counties with under 500,000 people. The sweetener was that those parties who met all of these qualifications could now stay on the statewide ballot "through the next two regularly scheduled general elections for federal office immediately following recognition of the political party." No similar amendment to A.R.S. § 16-802 occurred.

All of this legislative history is instructive in two ways. First, it emphasizes A.R.S. § 16-802's consistent separateness from A.R.S. § 16-801.

- a. Except for a one-time reduction in its required signature percentage in 1991, A.R.S. § 16-802 remains substantively the same local qualifying petition statute that it was at the time of statehood.
- b. Moreover, as a separate statute since 1956, its provisions are now even more distinct from those of A.R.S. § 16-801 than they were when the two provisions were originally enacted in 1912 as part of one statute.
- c. Any amendments to either A.R.S. § 16-801 or A.R.S. § 16-802 have always been in the form of express amendments to the particular statute, requiring no reference to or in pari materia reading of the other statute.
- d. Where the Arizona Legislature has wanted to create new methods for parties to remain on the ballot that would apply both statewide and to all local jurisdictions, it has amended A.R.S. § 16-804.
- e. A.R.S. § 16-802 has always been administered by local officials without reference to A.R.S. § 16-801 [Exhibit U [Roger W. Randolph Declaration], ¶ 5]

Laws 1991, 3rd S.S., Ch. 3, §§ 1-2 (Exhibit N). Because the Arizona Legislature wished to make changes to both statutes, it expressly amended both of them.

ı

2

3

4

5

6

8

10

11

13

14

15

16

17

18

19

21

22

23

24

25

26 27 28 4. In 2011, the Arizona Legislature enacted two bills that amended A.R.S. § 16-801. Laws 2011, Ch. 166, § 5 (Exhibit O); Laws 2011, Ch. 332, § 15 (Exhibit R). The amendments to the statewide petition qualification process involved a tradeoff. A statewide petition for qualification now not only needed signatures equivalent to 2% of the vote for governor, but also had to meet two other requirements: (1) signatures from at least five different counties; and (2) at least 10% of its signatures from counties with under 500,000 people. The sweetener was that those parties who met all of these qualifications could now stay on the statewide ballot "through the next two regularly scheduled general elections for federal office immediately following recognition of the political party." No similar amendment to A.R.S. § 16-802 occurred.

All of this legislative history is instructive in two ways. First, it emphasizes A.R.S. § 16-802's consistent separateness from A.R.S. § 16-801.

- a. Except for a one-time reduction in its required signature percentage in 1991, A.R.S. § 16-802 remains substantively the same local qualifying petition statute that it was at the time of statehood.
- b. Moreover, as a separate statute since 1956, its provisions are now even more distinct from those of A.R.S. § 16-801 than they were when the two provisions were originally enacted in 1912 as part of one statute.
- c. Any amendments to either A.R.S. § 16-801 or A.R.S. § 16-802 have always been in the form of express amendments to the particular statute, requiring no reference to or in pari materia reading of the other statute.
- d. Where the Arizona Legislature has wanted to create new methods for parties to remain on the ballot that would apply both statewide and to all local jurisdictions, it has amended A.R.S. § 16-804.
- e. A.R.S. § 16-802 has always been administered by local officials without reference to A.R.S. § 16-801 [Exhibit U [Roger W. Randolph Declaration], ¶ 5]

Laws 1991, 3rd S.S., Ch. 3, §§ 1-2 (Exhibit N). Because the Arizona Legislature wished to make changes to both statutes, it expressly amended both of them.

4. In 2011, the Arizona Legislature enacted two bills that amended A.R.S. § 16-801. Laws 2011, Ch. 166, § 5 (Exhibit O); Laws 2011, Ch. 332, § 15 (Exhibit R). The amendments to the statewide petition qualification process involved a tradeoff. A statewide petition for qualification now not only needed signatures equivalent to 2% of the vote for governor, but also had to meet two other requirements: (1) signatures from at least five different counties: and (2) at least 10% of its signatures from counties with under 500,000 people. The sweetener was that those parties who met all of these qualifications could now stay on the statewide ballot "through the next two regularly scheduled general elections for federal office immediately following recognition of the political party." No similar amendment to A.R.S. § 16-802 occurred.

All of this legislative history is instructive in two ways. First, it emphasizes A.R.S. § 16-802's consistent separateness from A.R.S. § 16-801,

- a. Except for a one-time reduction in its required signature percentage in 1991, A.R.S. § 16-802 remains substantively the same local qualifying petition statute that it was at the time of statehood.
- b. Moreover, as a separate statute since 1956, its provisions are now even more distinct from those of A.R.S. § 16-801 than they were when the two provisions were originally enacted in 1912 as part of one statute.
- c. Any amendments to either A.R.S. § 16-801 or A.R.S. § 16-802 have always been in the form of express amendments to the particular statute, requiring no reference to or in pari materia reading of the other statute.
- d. Where the Arizona Legislature has wanted to create new methods for parties to remain on the ballot that would apply both statewide and to all local jurisdictions, it has amended A.R.S. § 16-804.
- e. A.R.S. § 16-802 has always been administered by local officials without reference to A.R.S. § 16-801 [Exhibit U [Roger W. Randolph Declaration], ¶5]

п

Laws 1991, 3rd S.S., Ch. 3, §§ 1-2 (Exhibit N). Because the Arizona Legislature wished to make changes to both statutes, it expressly amended both of them.

4. In 2011, the Arizona Legislature enacted two bills that amended A.R.S. § 16-801. Laws 2011, Ch. 166, § 5 (Exhibit O); Laws 2011, Ch. 332, § 15 (Exhibit R). The amendments to the statewide petition qualification process involved a tradeoff. A statewide petition for qualification now not only needed signatures equivalent to 2% of the vote for governor, but also had to meet two other requirements: (1) signatures from at least five different counties; and (2) at least 10% of its signatures from counties with under 500,000 people. The sweetener was that those parties who met all of these qualifications could now stay on the statewide ballot "through the next two regularly scheduled general elections for federal office immediately following recognition of the political party." No similar amendment to A.R.S. § 16-802 occurred.

All of this legislative history is instructive in two ways. First, it emphasizes A.R.S. § 16-802's consistent separateness from A.R.S. § 16-801.

- a. Except for a one-time reduction in its required signature percentage in 1991, A.R.S. § 16-802 remains substantively the same local qualifying petition statute that it was at the time of statehood.
- b. Moreover, as a separate statute since 1956, its provisions are now even more distinct from those of A.R.S. § 16-801 than they were when the two provisions were originally enacted in 1912 as part of one statute.
- c. Any amendments to either A.R.S. § 16-801 or A.R.S. § 16-802 have always been in the form of express amendments to the particular statute, requiring no reference to or in pari materia reading of the other statute.
- d. Where the Arizona Legislature has wanted to create new methods for parties to remain on the ballot that would apply both statewide and to all local jurisdictions, it has amended A.R.S. § 16-804.
- e. A.R.S. § 16-802 has always been administered by local officials without reference to A.R.S. § 16-801 [Exhibit U [Roger W. Randolph Declaration], ¶ 5]

25

26

28

Laws 1991, 3<sup>rd</sup> S.S., Ch. 3, §§ 1-2 (Exhibit N). Because the Arizona Legislature wished to make changes to both statutes, it expressly amended both of them.

4. In 2011, the Arizona Legislature enacted two bills that amended A.R.S. § 16-801. Laws 2011, Ch. 166, § 5 (Exhibit O); Laws 2011, Ch. 332, § 15 (Exhibit R). The amendments to the statewide petition qualification process involved a tradeoff. A statewide petition for qualification now not only needed signatures equivalent to 2% of the vote for governor, but also had to meet two other requirements: (1) signatures from at least five different counties; and (2) at least 10% of its signatures from counties with under 500,000 people. The sweetener was that those parties who met all of these qualifications could now stay on the statewide ballot "through the next two regularly scheduled general elections for federal office immediately following recognition of the political party." No similar amendment to A.R.S. § 16-802 occurred.

All of this legislative history is instructive in two ways. First, it emphasizes A.R.S. § 16-802's consistent separateness from A.R.S. § 16-801.

- a. Except for a one-time reduction in its required signature percentage in 1991, A.R.S. § 16-802 remains substantively the same local qualifying petition statute that it was at the time of statehood.
- b. Moreover, as a separate statute since 1956, its provisions are now even more distinct from those of A.R.S. § 16-801 than they were when the two provisions were originally enacted in 1912 as part of one statute.
- c. Any amendments to either A.R.S. § 16-801 or A.R.S. § 16-802 have always been in the form of express amendments to the particular statute, requiring no reference to or in pari materia reading of the other statute.
- d. Where the Arizona Legislature has wanted to create new methods for parties to remain on the ballot that would apply both statewide and to all local jurisdictions, it has amended A.R.S. § 16-804.
- e. A.R.S. § 16-802 has always been administered by local officials without reference to A.R.S. § 16-801 [Exhibit U [Roger W. Randolph Declaration], ¶ 5]

п

4

5

8

9

10

11

12

13

14

15

16

18

19

20

21

22

23

24

26

28

4. In 2011, the Arizona Legislature enacted two bills that amended A.R.S. § 16-801. Laws 2011, Ch. 166, § 5 (Exhibit O); Laws 2011, Ch. 332, § 15 (Exhibit R). The amendments to the statewide petition qualification process involved a tradeoff. A statewide petition for qualification now not only needed signatures equivalent to 2% of the vote for governor, but also had to meet two other requirements: (1) signatures from at least five different counties; and (2) at least 10% of its signatures from counties with under 500,000 people. The sweetener was that those parties who met all of these qualifications could now stay on the statewide ballot "through the next two regularly scheduled general elections for federal office immediately following recognition of the political party." No similar amendment to A.R.S. § 16-802 occurred.

All of this legislative history is instructive in two ways. First, it emphasizes A.R.S. § 16-802's consistent separateness from A.R.S. § 16-801,

- Except for a one-time reduction in its required signature percentage in 1991,
   A.R.S. § 16-802 remains substantively the same local qualifying petition statute that it was at the time of statehood.
- b. Moreover, as a separate statute since 1956, its provisions are now even more distinct from those of A.R.S. § 16-801 than they were when the two provisions were originally enacted in 1912 as part of one statute.
- c. Any amendments to either A.R.S. § 16-801 or A.R.S. § 16-802 have always been in the form of express amendments to the particular statute, requiring no reference to or in pari materia reading of the other statute.
- d. Where the Arizona Legislature has wanted to create new methods for parties to remain on the ballot that would apply both statewide and to all local jurisdictions, it has amended A.R.S. § 16-804.
- e. A.R.S. § 16-802 has always been administered by local officials without reference to A.R.S. § 16-801 [Exhibit U [Roger W. Randolph Declaration], ¶ 5]

The second way this legislative history is instructive is in showing the Arizona Legislature's awareness of at least two ways that it could have had A.R.S. § 16-801's "next two...elections for federal office" language also apply to local qualification petitions, if it had intended to.

- a. It could have expressly amended A.R.S. § 16-802 along with A.R.S. § 16-801, as it did in 1991 when it dropped the required signature percentages in both statutes. Or
- b. Since it was effectively creating a third method of remaining on the ballot, it could have put the "next two...elections for federal office" language in 16-804, whose subsections (A) and (B) were already directed at that issue, and which applies at both the state and local level. This is what it had done when it created a second method of remaining on the ballot, codified in 16-804(B) in 1979.

In fact, it did neither. Rather, having two opportunities, it amended only A.R.S. § 16-801, which by its specific terms applies only to statewide qualifying petitions. Nothing in either the bills' text (Exhibits O, R), or in the House Summaries or Senate Fact Sheets for either bill (Exhibits P, Q, S, T), indicates any intent to also amend A.R.S. § 16-802 to have the "next two...elections for federal office" language also apply to local qualification. That means that Plaintiffs must rely on an implied amendment of A.R.S. § 16-802 by the amendment to A.R.S. § 16-801, an untenable position here, especially given the legislative history of these two statutes as described above.

Obviously, a third way (which also did not happen) would have been to have A.R.S. § 16-801 expressly state that the "next two...elections for federal office" language also applied to local petitions under A.R.S. § 16-802.

For precisely these reasons, no one has ever previously claimed, or been able to claim, that amendments to A.R.S. § 16-801 could impliedly cross over to affect A.R.S. § 16-802. And Plaintiff should not be allowed to claim that now.

2 3

25 26

The second way this legislative history is instructive is in showing the Arizona Legislature's awareness of at least two ways that it could have had A.R.S. § 16-801's "next two...elections for federal office" language also apply to local qualification petitions, if it had intended to

- a. It could have expressly amended A.R.S. § 16-802 along with A.R.S. § 16-801, as it did in 1991 when it dropped the required signature percentages in both statutes. Or
- b. Since it was effectively creating a third method of remaining on the ballot, it could have put the "next two...elections for federal office" language in 16-804, whose subsections (A) and (B) were already directed at that issue, and which applies at both the state and local level. This is what it had done when it created a second method of remaining on the ballot, codified in 16-804(B) in 1979.

In fact, it did neither.<sup>5</sup> Rather, having two opportunities, it amended only A.R.S. § 16-801, which by its specific terms applies only to statewide qualifying petitions. Nothing in either the bills' text (Exhibits O, R), or in the House Summaries or Senate Fact Sheets for either bill (Exhibits P, Q, S, T), indicates any intent to also amend A.R.S. § 16-802 to have the "next two...elections for federal office" language also apply to local qualification. That means that Plaintiffs must rely on an implied amendment of A.R.S. § 16-802 by the amendment to A.R.S. § 16-801, an untenable position here, especially given the legislative history of these two statutes as described above.

Obviously, a third way (which also did not happen) would have been to have A.R.S. § 16-801 expressly state that the "next two...elections for federal office" language also applied to local petitions under A.R.S. § 16-802.

#### Point Four

Judicial precedent also renders untenable any claim by Plaintiffs that A.R.S. § 16-801 has impliedly amended A.R.S. § 16-802.

Where only a particular statutory section has been amended, "[T]he modification by implication of the settled construction of an earlier and different section is not favored." TC Heartland LLC v. Kraft Foods Grp. Brands LLC, 137 S. Ct. 1514. 1520 (2017), quoting United States v. Madigan, 300 U.S. 500, 506 (1937). "[I]mplied amendments are no more favored than implied repeals." Nat'l Ass'n of Home Builders v. Defs. of Wildlife, 551 U.S. 644, 664, n.8 (2007); United States v. Welden, 377 U.S. 95, 103 (1964) ("Amendments by implication...are not favored"). Accordingly, "A new statute will not be read as wholly or even partially amending a prior one unless there exists a 'positive repugnancy' between the provisions of the new and those of the old that cannot be reconciled. . . . Before holding that the result of the earlier [legislative] consideration has been repealed or qualified, it is reasonable for a court to insist on the legislature's using language showing that it has made a considered determination to that end. . . ." Blanchette v. Connecticut Gen. Ins. Corps., 419 U.S. 102, 134 (1974).

In Arizona specifically, "modification-by-implication is disfavored by courts when construing statutes, and we will not find such an intent unless the interplay between the statutes under consideration compels us to find the legislature must have intended the later statute to impliedly repeal the earlier one," *Pijanowski v. Yuma County*, 202 Ariz. 260, 263, ¶ 14 (App. 2002). Put another way, Arizona courts will only find implied repeal or amendment in the extremely rare case "when conflicting statutes cannot be harmonized to give each effect and meaning." *Cave Creek Unified Sch. Dist. v. Ducey*, 233 Ariz. 1, 7, ¶ 24 (2013).

The reason for this is clear. "It is fundamental that individuals be able to ascertain what the law is. Implicit repeal is disfavored and courts enforce the plain meaning of statutes in part so that people have fair notice of what the laws are before they act, rather than only after the matter has been litigated. These rules of statutory construction permit

citizens to rely on the published statutes." Hounshell v. White, 219 Ariz, 381, 387, ¶ 23 (App. 2008).

6 7

Thus, for this Court to even consider that A.R.S. § 16-802 was impliedly amended or repealed by A.R.S. § 16-801 as amended in 2011, it would have to either be deemed "unavoidably inconsistent" with A.R.S. § 16-801, or else be deemed to "cover the same subject matter." *Hounshell*, 219 Ariz. at 386, § 13. Both those arguments are impossible to sustain here. Since their enactment over a century ago, the two statutes have operated in peaceful but separate coexistence precisely in order to cover different subject matter (statewide versus local party qualification for the ballot). Accordingly, they are not "inconsistent" at all, much less "unavoidably inconsistent." As the Court of Appeals put it in *Hounshell*, "There is no part of [A.R.S. § 16-802] that is inconsistent with any other existing statute," and, by it terms, A.R.S. § 16-801 does not "deal with the same subject matter as [A.R.S. § 16-802]." *Id.* 

Plaintiffs are accordingly reduced to making arguments in favor of amendment by implication such as those rejected in *Hounshell* in the context of repeal by implication:

Hounshell invites this court to establish a new basis on which to find repeal by implication. Hounshell's argument is that when the explicit repeal of one provision suggests that if the Legislature had considered the issue, it might have repealed another provision as well, the second provision is implicitly repealed. We decline to adopt this principle. It is not appropriate to even consider what statutes the Legislature has chosen to repeal or amend if the current statutes can be understood without recourse to this history.

...

Hounshell asserts that the modification of § 38–291(9) is not consistent with § 11–253, but courts only properly consider such arguments if the existing statutes cannot be harmonized. And here, as explained above, they can be.

...

Hounshell's argument on appeal amounts to the assertion that the only reason § 11–253 was not explicitly amended or repealed by H.B. 2120 was because the Legislature overlooked it. A court makes no such presumptions. ... Even if we were to assume the Legislature overlooked § 11–253 when it passed H.B. 2120, we have no way of knowing what the Legislature would have done if § 11–253 had been brought to its attention. Therefore, even if we consider possible inconsistencies, not in existing statutes but in the Legislature's decisions about what to repeal and what not to repeal, we find no basis upon which to repeal a statute the Legislature has not chosen to repeal.

Hounshell, 219 Ariz. at 387-88, 1 22-25 (App. 2008) (citations omitted)

The case of Roman Catholic Diocese of Phoenix v. Superior Court ex rel. County of Maricopa. 204 Ariz. 225 (App. 2003) provides an appropriate, concrete capstone to both this specific argument by Defendants and their Response generally. The argument there, analogous to Plaintiff's here, was that an express amendment to the attorney-client privilege statute in civil cases should also be impliedly applied to the unamended attorney-client privilege in criminal cases. The Court of Appeals rejected the argument, stating as follows, in language equally applicable in concept to this case:

The Legislature did not, however, amend the criminal attorney-client privilege statute. The Diocese argues that the criminal privilege should be interpreted to include the intent of the 1994 amendment to the civil privilege. We disagree.

"If the statute's language is clear and unambiguous, we give effect to that language and do not apply any other rule of statutory construction." In re Maricopa County Superior Court No. MIL 2001-001139, 203 Ariz, 351, 353, \$12, 54 P.3d 380, 382 (App.2002). The statute providing for an attorney-client privilege in criminal cases is unambiguous and does not create any additional protection for corporate clients. A.R.S. \$13-4062(2). A plain reading of the 1994 amendment indicates that it does not apply to the attorney-client privilege in criminal cases, and we will not read A.R.S. \$13-4062(2) to include the amendment.

Id. at 228-29, 19 7-8.

4 5

Plaintiff's argument here is exactly the argument made to and rejected by the Court of Appeals in Roman Catholic Diocese of Phoenix, and this Court should likewise reject it.

#### Conclusion

For all the reasons explained above, Defendants Roger Randolph (City Clerk) and City of Tucson request that this Court:

- 1. Exercise its discretion to decline special action jurisdiction of this matter; or
- If it accepts special action jurisdiction, dismiss Plaintiff's Petition: (a) as barred
  by laches and therefore untimely; or (b) for failure to state a claim upon which
  relief can be granted [ARCP 12(b)(6)]; or (c) for both those reasons; or
- If it accepts special action jurisdiction and does not dismiss Plaintiff's Petition
  for the reasons set forth in Number 2 above, nonetheless reject Plaintiff's
  Petition on the merits and deny Plaintiff any mandamus, declaratory, or
  injunctive relief whatsoever.

DATED: June 21, 2019.

MICHAEL G. RANKIN City Attorney

Ву

Principal Assistant City Attorney

ORIGINAL filed and a COPY of the foregoing Mailed this 21st day of June, 2019, to:

20 Paul Gattone

Law Office of Paul Gattone

21 Law Office of F 301 S. Convent Tucson, AZ, 85

Tucson, AZ 85701
Attorney for Plaintiff

By /s/ D. Grijalva

24 25 26

23

1

4

5

7

8

9

10

12

13

14

16 17 18

19

27

28

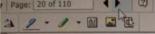
## INDEX FOR EXHIBITS

DOCUMENT	EXHIBIT
Email Correspondence between Plaintiff and Deputy City Clerk Suzanne Mesich re: Ballot Deadlines/Recognition	Exhibit A
Memorandum from Respondent Roger Randolph, City Clerk re: August 27, 2019 Primary Election - Qualified Political Parties	Exhibit B
2019 Candidate Information Pamphlet (Extract: Cover and Page 10)	Exhibit C
Vote by Mail Postcard	Exhibit D
The Arizona Secretary of State's form of Petition for Political Party Recognition on Statewide Ballot	Exhibit E
Special Session of the First Legislature of the State of Arizona (May 23 to June 22, 1912), Chapter 84 § 7	Exhibit F
1913 Civil Code, § 3016	Exhibit G
1928 Revised Code of Arizona, § 1278	Exhibit H
Arizona Code 1939, § 55-1006	Exhibit I
Laws 1947, Ch. 97, § 1 and 1952 Cumulative Supplement (both showing amendment of Arizona Code 1939, § 55-1006	Exhibit J
1956 A.R.S., Title 16, Ch. 2, Art. 1 (A.R.S. §§ 201, 202, and 203)	Exhibit K
Laws 1970, Ch. 151, § 17 (amending A.R.S. § 16-202)	Exhibit L
Laws 1979, Ch. 209, § 3 (enacting A.R.S. §§ 801-804)	Exhibit M
Laws 1991, 3rd S.S., Ch. 3 §§ 1-2 (amending A.R.S. §§ 801, 802, 804)	Exhibit N
Laws 2011, Ch. 166, § 5 – Senate Bill 1471 (amending A.R.S. § 801)	Exhibit O





EXHIBIT A



From: Suzanne Mesich

To: Charles Irvin #091 GPPC Office Coordinator

CC: Pima County Green Party; mikecease@yahoo.com; CFA

Date: 2/7/2019 2:29 PM

Subject: Re: [EXTERNAL]City of Tucson: GPPC ballot recognition

status come March 25, 2019?

#### Hello Chuck

This is in response to your email of January 27, 2019, in which you raised a concern about conflicting information on the ballot status for the Green Party of Pima County.

We reviewed the issue with our Elections Attorney and determined that A.R.S. § 16-804 governs continued representation of political parties in cities. Therefore, pursuant to A.R.S. § 16-804(B), the Green Party of Pima County will need to have voter registration equal to "at least two-thirds of one percent of the total registered voters in the City of Tucson" as of March 25, 2019 (155 days immediately preceding the Primary Election).

Thank you,

Suzanne Mesich Assistant City Clerk Tucson City Clerk's office 791-4213

suzanne.mesich@tucsonaz.gov

>>> Green Party of Pima County pimagreens@yahoo.com> 1/27/2019
3:24 PM >>>

Hi Suzanne,

There's seems to be some contradiction between the reference to statute 16-804 "Continued representation on basis of votes cast at last preceding general election or registered electors" and what is written on the petition "A new political party is entitled to representation as a political party on the official ballot through the next two regularly scheduled general elections for federal office immediately following recognition of the political party."

I have a question concerning the state of "GPPC ballot status come March

25th" from our conversation on January 14th where you stated to me the GPPC will be losing ballot recognition come this March 25, 2019. The GPPC's understanding is we have ballot recognition until March 25, 2021.

Now, in March, 2017 the GPPC turned in approximately 250 filled in "CITY OF TUCSON – PETITION FOR POLITICAL PARTY RECOGNITION" sheets which were certified by both the City Clerk's office as well as the Pima County Recorder's office. I have attached a copy of the blank petition sheet passed by the GPPC for your information. The top paragraph from those petitions reads as follows:

## CITY OF TUCSON – PETITION FOR POLITICAL PARTY RECOGNITION

To the Honorable Mayor and Council, and the City Clerk of the City of Tucson, State of Arizona:

I, the undersigned, a qualified elector of the City of Tucson, State of Arizona, hereby petition that a new political party become eligible for recognition, and be represented by an official party ballot at the next ensuing regular primary election, to be held on August 29, 2017, and accorded a column on the official ballot at the succeeding general election to be held on November 7, 2017. A new political party is entitled to representation as a political party on the official ballot through the next two regularly scheduled general elections for federal office immediately following recognition of the political party. Said party shall be known as \_\_\_\_\_\_\_I

further declare that if I choose to use a post office box address on this petition, my residence address has not changed since I last reported it to the county recorder for purposes of updating my voter registration file.

The GPPC understands the "next two" regularly scheduled general elections for federal office immediately following the GPPC's recognition in March, 2017 are November 2018 and November 2020. As indicated in the yellow-highlighted sentence above, the GPPC's ballot status should not expire until March 25, 2021.

So, now I'm puzzled about your statement to me concerning the GPPC's ballot status come this March 25th and the relevance of 16-804. Is there something that I missed in the interpretation of the petition heading and 16-804? Thanks for helping me understand,

Chuck Irvin, PC #091

Your Green brother in "the struggle" and Solidarity MR (Membership & Registration) Coordinator

16-804. Continued representation on basis of votes cast at last preceding general

election or registered electors

A. A political organization that at the last preceding general election cast for governor

or presidential electors or for county attorney or for mayor, whichever applies, not

less than five per cent of the total votes cast for governor or presidential electors, in

the state or in such county, city or town, is entitled to representation as a political

party on the official ballot for state officers or for officers of such county or local

subdivision.

B. In lieu of subsection A, a political organization is entitled to continued representation as a political party on the official ballot for state, county, city or town

officers if, on October 1 of the year immediately preceding the year in which the

general election for state or county officers and for city or town officers one hundred

fifty-five days immediately preceding the primary election in such jurisdiction, such

party has registered electors in the party equal to at least two-thirds of one per cent

of the total registered electors in such jurisdiction.

C. The secretary of state shall determine the political parties qualified for continued

representation on the state ballot pursuant to this section by February 1 of the appropriate year. Each county recorder shall furnish to the secretary of state such

information as the secretary of state may require no later than October 31 of the

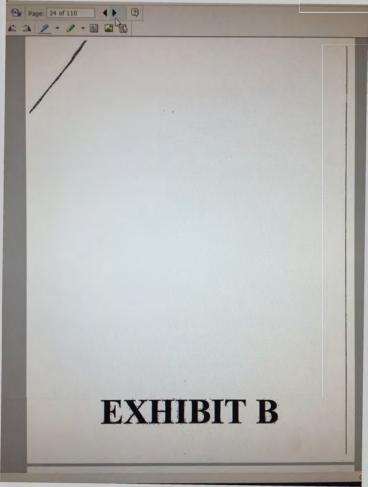
preceding year.

D. Each county recorder shall determine the political parties qualified for the county

ballot pursuant to this section by February 1 of the appropriate year.

E. Each city or town clerk of a city or town providing for partisan elections

shall determine the political parties qualified for such city or town ballot pursuant to this section one hundred forty days before the primary election.





## MEMORANDUM

DATE: April 2, 2019

TO: The Honombie Mayor and Council Members

FROM: Clay Clerk (4213)

SUBJECT: August 27, 2019 Prinary-Blechon - Qualified Political Parties

Attached is the notice of political parties qualified for the August 23, 2019 Printary Election ballot.

Nomination pelitique mig de filed April 29 duough NAy 28, If you have my goindivies, please do-doctabilitat in connectrie.

Responding C

RWR

Attachment Notice

City Man

Capacitation of the control of the c

# AUGUST 27, 2019 PRIM

Democratic Part Republican Parts Libertarian Parts e seal of the City of



# EXHIBIT C

## O LIGHT WE

PRIMARY ELECTION
AUGUST 27

GENERAL ELECTION
NOVEMBER 5

### CANDIDATE INFORMATION PAMPHLET



PREPARED BY THE OFFICE OF THE CITY CLERK 9th Floor City Hall 255 W. Alameda, P.O. Box 27210 Tucson, Arizona 85726-7210 (520) 791-4213

### NOMINATION PROCEDURES

Presently there are four (4) qualified political parties (Democratic, Republican, Libertarian, or Green) eligible to participate in the 2019 City of Tucson Primary Election. A qualified candidate may seek nomination by one of these political parties through the nomination petition process or as a write-in candidate in the Primary Election.

Pursuant to A.R.S. §§ 16-311(I) and 16-312(D), the City Clerk shall not accept the nomination paper of a candidate if the person is liable for an aggregation of \$1,000 or more in fines, penalties, late fees or administrative or civil judgments, including any interest or costs, in any combination, that have not been fully satisfied at the time of the attempted filling of the nomination paper and the liability arose from failure to comply with or enforcement of A.R.S. Title 16 Chapter 6.

### METHODS OF NOMINATION

### 1. Name Printed on Primary Election Ballot

### File: April 29 through 5 p.m. May 29, 2019

File the following with the City Clerk:

- Nomination Paper and Declaration of Qualification and Eligibility [A.R.S. § 16-311(A)]
- Financial Disclosure Statement [A.R.S. § 16-311(A)]
- Nomination Petitions [A.R.S. § 16-314(A)]

NOTE: The City Clerk will not accept partial filings, late filings, or supplements to petitions already filed.

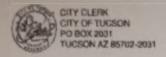
### Signature Requirements

The number of valid signatures on the petition must be equal to at least five percent (5%), but not more than ten percent (10%) of the votes cast by the party in the ward in the 2015 General Election [A.R.S. §16-322(A) (9), Tucson Code § 12-65]

	DEMOCRATIC PARTY		REPUBLICAN PARTY		LIBERTARIAN PARTY		GREEN PARTY	
	MIN.	MAX.	MIN.	MAX.	MIN.	MAX.	MIN.	MAX.
MAYOR	1,978	3,954	1,167	2,332	24	48	18	34
WARD 1	323	644	84	167	3	5	3	4
WARD 2	427	853	425	848	6	10	. 2	3
WARD 4	279	557	315	629	5	9	2	2

Successful candidates in the Primary Election will have their names placed on the General Election ballot

# 



**ELECTRONIC SERVICE REQUESTED** 

NON-PROFIT US Postage PAID Tucson, AZ Pennit No. 438



### THE CITY OF TUCSON WILL CONDUCT THE 2019 PRIMARY AND GENERAL ELECTIONS BY MAIL

Primary Election - August 27, 2019 General Election - November 5, 2019

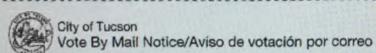
LA CIUDAD DE TUCSON LLEVARÁ A CABO LAS ELECCIONES PRIMARIA Y GENERAL DEL 2019 POR CORREO

> Elección Primaria – 27 de agosto del 2019 Elección General – 5 de noviembre del 2019

### VOTE BY MAIL VOTACIÓN POR CORREO

BELOW IS THE ADDRESS WHERE THE BALLOT WILL BE MAILED
DEBAJO ESTÁ LA DIRECCIÓN A LA QUE SE ENVIARÁ POR CORREO LA BOLETA

Month / Date / Year - Mes / Dia / Afro



I aware or affirm under permity of pergury that the stocks becoming on a line and come.

Ye are a affirm, from permit of perfurbs, due in trimmación profesior on verdicions y or

You must return this notice with your ballot choice marked by July 12, 2019 to receive a ballot for the 2019 Primary Election. Tiene usted que devolver este aviso con su selección de boleta marcada para el 12 de julio del 2019 para recibir una boleta para la Elección Primaria del 2019.

DEMOCRAT, REPUBLICAN, OR LIBERTARIAN, By doing so, the General Election. If you has to return this card with your ballot chon TIENE USTED LA OPCIÓN DE SELECCIONAR UNA BOLETA I REGISTRADO COMO DEMÓCRATA, REPUBLICANO, 6 LIBER	OR THE PRIMARY ELECTION SINCE YOU ARE NOT REGISTERED AS A his will not affect your political party affiliation or your ability to vote in the ince marked and signed, you will not be mailed a ballot for the Primary Election. DE PARTIDO PARA LA ELECCIÓN PRIMARIA PUESTO QUE NO ESTÁ ITARIO. Al hacerio así, esto no afectará a su affiliación a un partido político ni selve la tarjeta con su selección de boleta marcada y firmada, no se enviará por
☐ Democrat/Demócrata ☐ Republican/Repu	iblicano Libertarian/Libertario
2 PLEASE MAIL MY BALLOT TO THE FOLLOWING ALTERNATE POR FAVOR, ENVIEW MI BOLETA A LA SIGUIENTE DIRECCIÓN Name / Nombre:	Distriction of the Control of the Co
Residence Address / Domicilio:	
Meiling Address / Dirección Postal	
Sign Legal Name / Firme su nombre legal	Date of Birth Required / Se requiere fecha de nacimiento
x	×



NECESSARY PMAILED UNITED STATE

BUSINESS REPLY MAIL FIRST CLASS MAIL PERMITINO. 495 TUCSON AZ POSTAGE WILL BE PAID BY ADDRESSEE

> CITY OF TUCSON PO BOX 28811 TUCSON AZ 85775-7697 խորդանաներիրերովերայիներինիրերինի

You must return this postpard with your ballot, choice marked by July 12, 2019 to receive a bailot for the City of Noepon Primary Election. There gue devolver esta tarieta manaida con assection de boleta paraie. 12.de julio del 2019 para vecibir, una boleta para la Elección Primaria de la Giudad de Tuesan.

TO RETURN THIS NOTICE:

1. DETACH THE RETURN POSTCARD AT THE PERFORATION

2. PROVIDE THE REQUESTED INFORMATION AND SIGN ON THE REVERSE SIDE

S. FOLD IN HALF ATTHE FOLD LINE THEINSIDE

4. TARE BELOW AND MAIL NO POSTAGE IS NECESSARY

PARA DEVOLVER ESTE AVISO:

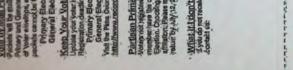
1. SEPARE LA TARJETA POSTAL QUE DEBE DEVOLVER POR LA LÍNEA DE PUNTOS PERFORADOS

2. PROPORCIONE LA INFORMACIÓN SOLICITADA Y FIRME AL REVERSO

3: DÓBLELA POR LA LÍNEA DE DÓBLAR: DE FORMA QUE SU INFORMACIÓN QUEDE EN EL INTERIOR

4. CIERRELA CON CINTA ADHESIVA Y NO ES: NECESARIO FRANQUEO

CIERRE CON CINTA ADHESIVA AQUI





### Petition For Political Party Recognition

i, the undersigned, a qualified elector in the county of	, state of Arapra, hereby petition that a new political party become
eligible for recognition, and be represented by an official party ballot at the next en	sung regular primary election, to be held on the
and accorded a column on the official ballot at the succeeding general election to	be held on the
representation as a political party on the official ballot through the next two regular	y scheduled general elections for federal office immediately following recognition
of the political party. Said party shall be known as	I furtiver
declare that if I choose to use a post office box address on this petition, my resid	ence address has not changed since I last reported it to the county recorder for
curroses of undating my unfor registration file	

Signature	Printed name	Actual residence address, description of place of residence, or Argona post office box address, city or town	Date of signing
1			
2			
,			
4			# W. T.
			State
			TE TOWN
7			
•			
•			
10			

Secretary of State, Revised 7/17/2012

## Instructions for Circulators

- a typed or preted under the choulestor's algorithm or residence location shall be included on the petition nos advers or, if no street address, a description of residence location shall be included on the petition

a person who is not required to be a resident of this state but who is officewise qualified to

(Printed Name)

. In the state of Arzona, hareby verify that each of the names on the patition was signed in my presence d elector who resides at the address given as their residence on the date Indicat on the date indicated, that in my b register to vote in the county of

Signature of Carculator

Typed or Printed Name of Orculator

(if no street address, a description included on the peation) Creutator's Actual Residence Addres

City or Town and Zip Code

# BIXEIIBIT B

### ACTS, RESOLUTIONS AND MEMORIALS

OF THE

SPĒCIAL SESSION
FIRST LEGISLATURE

OF THE

STATE OF ARIZONA

SESSION REGLIN ON THE TWENTY-THIRD DAY OF MAY,
A.D. 1912, AND ENDED ON THE TWENTYSECOND DAY OF JUNE, A.D. 1912
PHORENIX, ARYZONA

THE WAREL CO. PRINTERS

CHAPTER 84.

272

To Provide for Primary Elections in the State of Actions, and to Provide Penalties for Violations Thereof.

Be it Everted by the Legislature of the State of Artsone:

Sec. J. On the eighth Tuenday price to sire givened of special clericies, as which candidate for public office are to be deeped, there shall be a primary election in which such and every policied youry entitled, and inhesting, to make nominations for the side requiring general or special election data; principals for the side requiring general or special election data; principal on the different side of the sid

"Sec. 2. At islat sirety (60) days before the date of any regular prilates perfection, the Secretary of Saje stall prespon and financial to the Doard of Supervices of the several colori ries of the States a notes in writing designating the offices to

which candidates are to be nominated at such primary section. Upon receipt, of stein notice sized petric of the Board of Supervisors shall forthwith publish so pared theces as may be applicable to his county, once cards week for three consocratics weeks in not more than one newapaper of general: dirative weeks in not more than one newapaper of general: dicalation in the county, provided, sadd, printed notice shall concialison in the county, provided, sadd, printed notice shall concialison in the county, provided, sadd, printed notice shall contain only a referring to the tay more within the primary the be badd, the date of the primary and the offices to be filled and giall be substantially in the following form:

The second secon

The Sheriff of each county "that!, timmediately after the publication of such notice, that a velocie of each of cent between the protect in the such section of such protect in the county. It is posted in that precioet in the county, the species is not between the primary will be taked in each precioet therein, to where the primary will be taked in each precioet therein, to getter, with the office for which chaldquing att to be numbered and the range of persons constituting the friently. Dourse, All official notices calling State or county primary boards. All official notices calling State or county primary neurismics of canonical to the new shall be had for the permission of canonical to the such state of the same shall be had for the neurismics of canonical to the passes capitalized parties and for the permission of canonical to the same shall be had for the neurismission of canonical to the same shall be had for the neurismission of canonical to the same shall be had for the permission of store than the factor of the same shall be such for the same system of secretary of Supervisions while as decodying upon the Cliert of the Board of Supervisions shall be shall be the top to two Clerk' and what the case may be shall be understood to be meant in the case of send ofly or

stating that to the best of his knowledge and belied All the bignets thereof, are qualified electors of the precinct which they give as their residence, and that each signer is a member of the party the momination of which the candidate whose hame appears on each nomination payer is seeking.

Sec. §. Snich wombation papers shall be filed not more than Sixty (60) Days not less than Twenty (20) Days before the date fixed by law for said primary electron; provided that in a blacial primary electron called by a peckamistion accidation in the law promission petitions may be filed not less than Ten (10) Days, before the date fixed by such preclamation for such primary electron.

Sec. 6. Such immunation papers shall be signed

(a) If for a candidate for the office of Presidential Elsetion, United States Senator, Representative, in Congress, on
for any State office, excepting, members of the Legistame
and Superior Court Judges, by a number of qualified elector
equal to at less one ger cent (1%) of the votes of the party
of each candidate if at least tiree consists in the Sente, but
and lies than one for cent (1%) for more than ten per cent
(10%) of the setal vote of this party in the State, but
and lies a sandidate for a tentil tiree per cent (3%)
of the party vote in such county but not more than ten per
cent (10%) of the tetal vote of the party designated in such
county;
(c) If for a candidate for County Precinct Compilites
man by at least five per cent (5%) of the party vote in at
least five per cent (5%) of the designated party vote in at
least five per cent (5%) of the designated party vote in at
least five per cent (5%) of the designated party vote in at
least five per cent (5%) of the designated party vote in at
least five per cent (5%) of the designated party vote in at
least five per cent (5%) of the designated party vote in at
least five per cent (5%) of the designated party vote in at
least of each of the section preciners of the city or town,
but not less than five per cent (5%) or oner than ten fire
cent (10%) of the vote of the party designated ju the fire gify
or town,

### LAWS OF ARTZONA

The basis of percentish in each case shall be the vote of the party for Covering at the last praceding general cleotion.

Sec. 7. Any political organization, which, at the last preceding general election shall have cast five per cent (3%) of the total vote in the State for its candidate, (or in it subcivision thereof, in which a candidate seeks roundiation of such political organization for a local for ceinty office), shall be suitified to representation on the official ballot as a political party, and, whenever a petition signed by a countier of qualified electors equal to at least two per cent (2%) of the votes cars for Governor at least two per cent (2%) of the votes cars for Governor at the last perceding general election, in at least each of five (5) counties of the Siate, shall be filed with the Secretary of State and certified to by any afficiavity of ten (10) veril fenover, requisible for the Covernor of State and certified to by any afficiavity and be represented by as official, ballot at the ensuing private shall dance to petitioners within a comity, or a city, or town primary election, and the succeeding general election. The anneary election and the succeeding general election. The same priviled that said petition. shall be filed with the Clerk-of the Electropic or the City or Town Orients at the case may be, and signed by a submber of petitioners equal to at the preceding regular. gregal election for the case may be, at the preceding regular gregal election for the several candidates for Coenty Attorney or Mayor, as the case may be, distributed throughout at Jass con-fourth of the election precipts of suid-county, edy, say tewn, as the case may us. Provided that such pettions is are provided for in this section shall be filled for more than Sixty (60) Days and not less than Thirty (30) Days progreeral election for the several and or Mayor, as the case made and content of the election or town, as the case may be as are, provided for in this than Sixty (60) Days, and not reding the primary election

Sec. 8. (1) At Jeast twelve days, before the primary of the year 1912, and of each alternate year thereafter, each

# THE HEAT

## THE REVISED STATUTES OF ARIZONA 1913

### CIVIL CODE

SAMUEL L. PATTEE, CODE COMMISSIONER

> THE MCNEIL COMPANY PROENTX, AREZONA

poffice address, and if in an incorre than a number of nomination one candidate is to be elected to lates to be elected to such office, To each such pomination paper

e party the nomination of which they give as their residence, and of all the signers thereof are qualpaper he certifies, stating that in such nomination paper is seek-

sed by such proclaination for such hall be filed not more than sixty of the date fixed by law for said to primary election called by a

the signes, the office, course of presidential relector. United free, or for any state office, except and superior court judges, by a lat least time per cent of the vote of least time counties in the state of the total of the total of the total of the legisterinty office, member of the legisterinty.

three per cent of the party vote in per cent of the total vote of the

ate of such candidate in such preinty precinct committeeman by a

n at least one-sixth of the election y or town office by at least five per set such candidate in the precinct he party designated in the city of not less than five per cent or most

case shall be the vole of the party general election at which a gover

goth. Any political organization which, at the last preceding genaria election shall have that five per cent of the total vote in the satit
tion.

To the condidates, for in a spiddivious thereof, in which a candidate
first and a spid to the state of the total vote in the satit
tion.

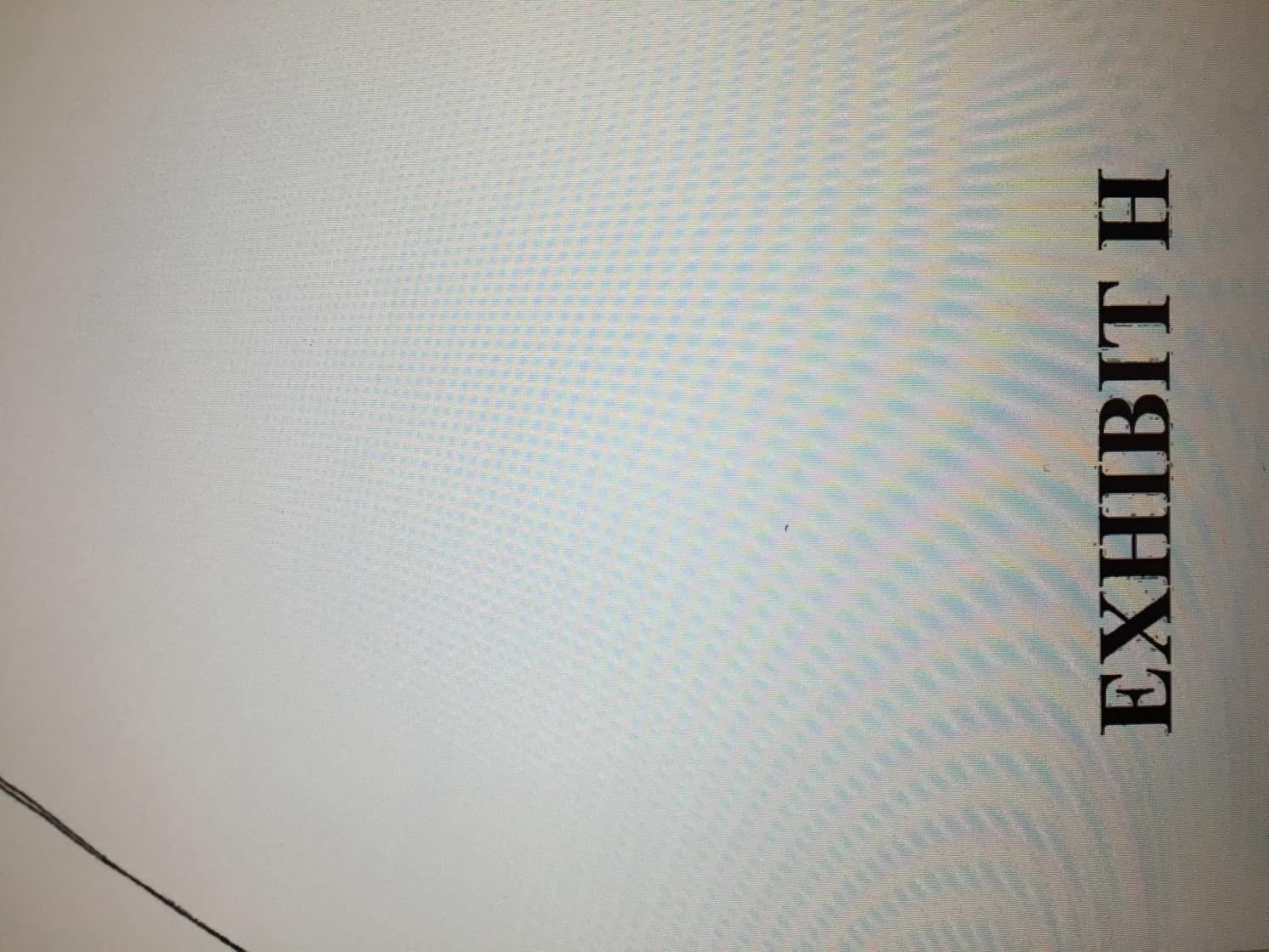
The last preceding sent political organization for a local or county
to a party, and whenever, a petition algued by a number of gualified
you be a preceding general election in at least two per cent of the votes call for governor at
the last preceding general election in at least and or five counties of
the state, shall be find with the secretary of aster and certified to by
any affidive to less well known, reputable, qualified electors of the state,
when they shall be so recognized and such party shall be represented by an
official ballot at the engiting primary election and the storceding gentical party.

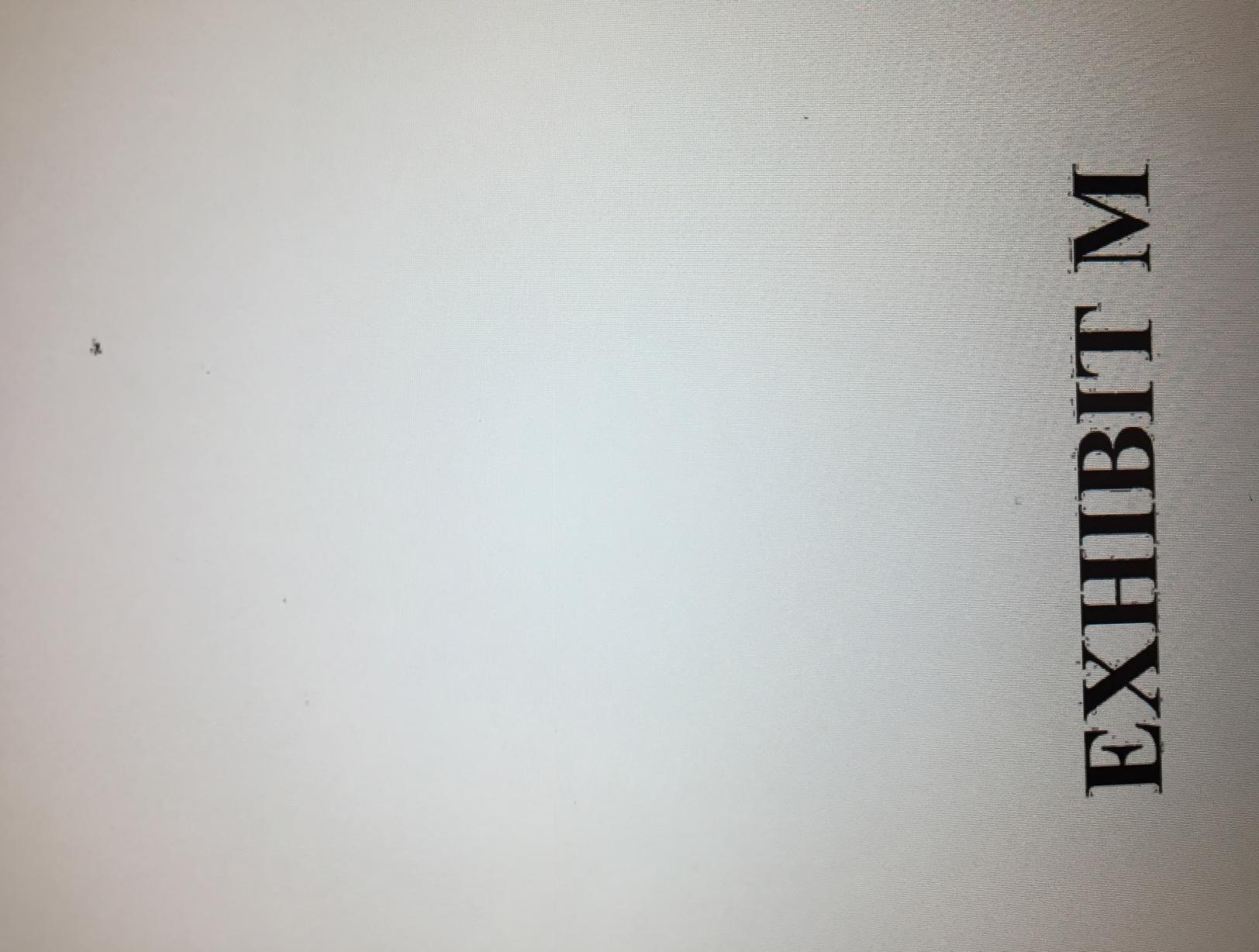
The same privilege shall have to petitioners wistinher or mayor, as the case may be, distributed throughout at least one. Burth of the election precincts of such county, cky, or town as the case may be. Provided that such petitions as are provided for in this reductly, or a city or town, as to county, city or town primary elections, provided that said petition shall be filed with the cluck of the board of supervisors or the city or town clerk as the case may be, and asigned by a number of petitioners detail to at least three per cent of the total vote of such totalsty, city or town, as the case may be, at the preceding regular general election for the severall candidates for county attordays preceding the primary-election. ection shall be filed not more than sixty days and not less than thirty

supervitors, and at least ten days before the primary in each year, each clerk whill prepare asmple official telests, placing thereon alphabetedly under the appropriate title of such office and partly mane the manys of all saudidable to be voted for in each released of his county oc of his city, as the case may be, for whom nomination papers have been fined. Such sample ballots shall be printed upon trained or colored 1914, and of each alternate year thereafter, each clerk of the boards of paper and shall contain no blank endotsement or certificate. 8017. (L) At least twelve days before the primary of the

county, as the case may be, in a conspicuous place in his office. (2) The clerk of the hoard of supervisors shall forthwith submit the titlest of each party to the county chairman thereof and in the case of city primaries, the city derig a ticket of each party to the city Paigram, thereof and the respective clerky shall also mail a copy to such this party whom comings pages have been filed with him to his post office address as given in such adminstion paper and each of each states shall post a copy of each sample ballot of his respective city or

(2) The chalcman of each party shall on or before the teath day preceding such primary suggest to the clerk of the board of super-





### SESSION LAWS STATE OF ARIZONA

四十



Thirty-Fourth Legislature FIRST REGULAR SESSION

Convened January 8, 1979 Sine Die April 21, 1979

1979

or all petitions nied los, If the board of or or days, the peti-

and by the county as board of eguilization: tions flied pririumant to cona Revised Statutes, epartment of revenue use a substantial num-

and after December 31,

iona Herhed Statutus, y I. Hift arth the de-Herhed Statutes de-radiations of property, 1970 county the ights, pan fleylied Statutes, nd classification property by the soun-

Jn 5. 42-151, Arheona

patition with the state

and after December 31

ls becessary that this

1970

ELECTIONS AND ELECTORS

CHAPTER 209

HOUSE BILL: 2020

An Act cutating to electrops and slotters: prescribing a new electrons code; making contorolog editory, repealing attle 16, Aftons Hooling Statetus, except confight is an aneding the Actions Actions Hooling to Matters, by adding a code with the Actions in the Action actions and the Actions act

Be it enacted by the Legislative of the State of Artrona.

Section 1. Purposer

The degislature intends by this act to provide for a substantial and orderly relocation of thiston provisions of his selecting to elections and elections within the last substantial to elections and elections within this 18. Artsian Revised Statutes, to make certain substantial elections of the continue of the prescribe and related from the continue of the prescribe descripting after distinct to be continued within other titles of Artsoul Revised Statutes.

Sac. 2, Repeal

Sec. 3, Title 16, Artrona Revised Statutes, except chapter II, is repeated Arizona Revised Statutes are amended by adding a new tille 10,

TITLE 16

ELECTIONS, AND BLECTORS

CHAPTER I -QUALIFICATION AND REGISTRATION OF ELECTORS

MOLIVELSTORE EQU SNOLLFULLED

ARTIQUE a,

g 16-10f. Qualifugations of resisterant
green resident of the state is qualified to register ty-roth it be;
1. In a citizen of the United States.
2. Will be eighteen views or more at age prior to the regular eigeral elecstica near following, his registration.
3. Will have been a residential of the sates first days next proceeding the sizeclon accord as provided in \$1.0-125 and \$10-127.
4. In able to write his hame or made he mark, where prevented from an
siding by physical disability.
5. Has sint been convicted of treasure or a faiour, unless restored to drill
rights, is not unless guardianghin, non compos meants or insans.

deletions by etchiesate

a indicated by underline

ARTICLE 1 REPRESENTATION ON HALLOT

Representation of new party on ballet at primary and general

A new political party may become eligible for recognition and shall be represented by an official party toiled at the next caming regular primary else on and exceeded a column on the official ballet at the secretaling passent betten upon filling with the accordancy of state a petition signed by a number of qualified electors equal to set less than two per cent of the total voice set for governor or presidential electors at the last preceding general electors. The position shall

- 1 Deer the certification of the county recorder of each county that the signatures on the politics have been exemined and that these are signatures of qualified electors of the county
- 2 Be verified by the affidavit of two qualified electors of the etats, sating that the algreen thereof he recognized as a new political party. The status as qualified electors of the alguers of the affidavit shall be certified by the county accorder of the county in which they reside.

18-802. Representation of new party on ballet for county or election .

A sere political party shall become eligible for recognition and shall be represented by an official party ballot at the next caming permaty believe of a county, city or twen and be placed or the official ballot at the succeeding require election upon fulling with the clear or the official ballot at the succeeding require of the city or twen clork, as the case may be, a public adapted by a number of qualified electors equal to not less than three per case of by visit case for county attempt in the case of a county particle, or for mayor in the case of a county particle, as the case may be, that is the county recorder or the city or twen pattions and that he case may be, that is the county recorder or the city or twen election, as the case may be, that is the county recorder or the city or twen election, as the county in the particle of the particle of the sensities the signature of a number of qualified electors qual to not best the country desired of the country of

g sc-qti Filling petition for recognition, administration of petitions to country recorder for algorithm of a new political party, shall be filled with A. A petition for recognition of a new political party, shall be filled with the secretary of distin, dentre of the country of the case may be, not less than seventy-five nor more class may be not be primary election.

10 No petition for recognition shall be subsetted for signature verification to a country recorder or a city or lover clerk, as the case may be, later than the remarked fitteen days prior to the primary election.

11 The country recorder shall verify and count all signatures of qualified elections within thatty days after subministers.

Changes or additions in last are

1

A. A political organization which at the last preceding general checks at the last preceding general checks at the last preceding general checks at the general checks at the general tensor or presidential elections, in the pits set to the total voite cast the gostilide in representation as a political party on the official halle for state, country, city or town of such country of the official halle for state, country, city or town official said and the substituted to continued representations of subscribes as a political party on the official halle saidled to continued representations as a political party on the official halle saidled to continued representations as a political party on the official halle saidled to continued representations as the state of the pits of the said tensor for each representation of the centry of the presentation of the section in the party election.

The secretary of state stuff destorate in such lutified to it is according to represent the total registered chectors in such party election to the presentation of the state which the political parties qualified.

The secretary of state stuff destorate in such lutified to the secretary of state such information as the state hall purpose to the section to the presentate pain. Each country recorder that furnish to it is section to the section by June 35 of the appropriate year. The political parties qualified for the presentation of the section by June 35 of the appropriate year.

E. Each city or term clerk of a city or term providing for purious of the state of Adapts and parties qualified for seat and section on the section to this section on the section of the state of the state of Adapts and the state of the state of Adapts and the state of the state of

A. Upon evidence and proof which has been presented before this legislature, other state legislatures, the Congress of the United States and in U courts of the United States and in the court of the United States and in the court of the formal presument, and the federal constitution granulation to the several states a republican form of government and pretection against the several states a republican form of government and protection against the several states a requirement of the state in the federal government in the passes and united of the state of Arises emissed in the pretected and states that the state of Arises element is the pretected of the state of the state of Arises element in the state of a state of the state

# 

State of Arigona. Semaje Fiftieth tegislature First Angular Session 2011.

### CHAPTER 166

## SENATE BILL 1471

AR ACT

ameding section 14-248, artony fetisebi statutes, amenong section 18-531, artony revised statutes, as ameno de lamb 2000, charterqua, section 22, amendam sections 16-147, 18-500, 16-301, and 18-803, altona revised Statutes, relation to electross and tegings.

TTEKT OF BLUE BEGLISS ON MEXT PAGES

6 7

15.

- E. The election board official shall receive the ballot from the voter and in the presence of the election board and if the ballot includes a stub, remove the stub without opening the ballot, deposit the ballot in the ballot box, or if the voter so requests, hand the ballot to the voter and permit the voter to deposit the ballot in the ballot box, and string the stub, if any, upon ON a string provided. If the ballot is of the type that includes a stub and the stub has been removed from the ballot prior to BEFORE receipt by the election official, it shall not be deposited in the ballot box, but it shall be marked "spoiled" and placed with the spoiled ballots.
- F. After delivery of the ballot to the election board official, or if the voter has asked to deposit the ballot in the ballot box, after the ballot is deposited, the voter shall then proceed outside the voting area and shall not again enter the voting area unless the voter is an authorized election official.
- G. Any registered voter may, at the voter's option. MAY be accompanied by a minor who is permitted in the voting booth pursuant to section 16-515, subsection E, be accompanied and assisted by a person of the voter's own choice or be assisted by two election officials, one from each major political party, during any process relating to voting or during the actual process of voting on a paper ballot, machine or electronic voting system. A person who is a candidate for an office in that election other than the office of precinct committeeman OR WHO HAS BEEN EMPLOYED BY OR VOLUNTEERED FOR A CANDIDATE, CAMPAIGN, POLITICAL ORGANIZATION OR POLITICAL PARTY IN THAT ELECTION is not eligible to assist any voter.
  - Sec. 5. Section 16-801, Arizona Revised Statutes, is amended to read: 16-801. Representation of new party on ballot at primary and general elections
- A. A new political party may become eligible for recognition and shall be represented by an official party ballot at the next ensuing regular primary election and accorded a column on the official ballot at the succeeding general election upon ON filing with the secretary of state a petition signed by a number of qualified electors equal to not less than one and one-third per cent of the total votes cast for governor at the last preceding general election at which a governor was elected. FROM THIS NUMBER, AT LEAST FIVE DIFFERENT COUNTIES SHALL BE INCLUDED AS THE COUNTY OF REGISTRATION AMONG THE REQUIRED TOTAL OF QUALIFIED ELECTORS AND AT LEAST TEN PER CENT OF THE REQUIRED TOTAL OF QUALIFIED ELECTORS SHALL BE REGISTERED IN COUNTIES WITH POPULATIONS OF LESS THAN FIVE HUNDRED THOUSAND PERSONS. The petition shall:
- 1. Bear the certification of the county recorder of each county that the signatures on the petition have been examined and that these are signatures of qualified electors of the county.
- 2- 1. Be verified by the affidavit of ten qualified electors of the state, asking that the signers thereof be recognized as a new political party. The status as qualified electors of the signers of the affidavit shall be certified by the county recorder of the county in which they reside.

- 6 -

3.

Be in substantially the form prescribed by section 16-315.
 Be captioned "petition for political party recognition".

B. NOTWITHSTANDING ANY OTHER LAW, ON RECOGNITION AS A POLITICAL PARTY THAT IS REPRESENTED BY AN OFFICIAL PARTY BALLOT AT THE PRIMARY ELECTION AND ACCORDED A BALLOT COLUMN AT THE SUCCEEDING GENERAL ELECTION, A NEW POLITICAL PARTY IS ENTITLED TO REPRESENTATION AS A POLITICAL PARTY ON THE OFFICIAL BALLOT THROUGH THE NEXT TWO REGULARLY SCHEDULED GENERAL ELECTIONS FOR FEDERAL OFFICE IMMEDIATELY FOLLOWING RECOGNITION OF THE POLITICAL PARTY. AFTER THESE TWO REGULARLY SCHEDULED GENERAL ELECTIONS FOR FEDERAL OFFICE THE POLITICAL PARTY IS INELIGIBLE FOR FURTHER REPRESENTATION ON THE BALLOT UNLESS IT QUALIFIES FOR CONTINUED REPRESENTATION ON THE BALLOT AS PRESCRIBED IN SECTION 16-804 OR IT FILES A NEW PETITION FOR RECOGNITION AS A NEW POLITICAL PARTY PURSUANT TO THIS SECTION AND SECTION 16-803.

Sec. 6. Section 16-803. Arizona Revised Statutes, 13 amended to read:
16-803. Filing metition for recognition: submission of
patitions to county recorder for signature
verification

A. A petition for recognition of a new political party shall be filed with the secretary of state, the officer in charge of elections of the county or the city or town clerk, as the case may be, not less than one hundred forty days before the primary election for which the party seeks recognition. A new party that seeks both state and county recognition may file the original petition with the officer in charge of elections for the county and a certified copy of the petition with the secretary of state.

B. A petition for recognition shall not be submitted for signature verification to a county recorder or a city or town clerk; as the case may be, later than one hundred eighty days before the primary election.

G. The county recorder shall verify and count all signatures of qualified electors within thirty days after submission.

C. ON RECEIPT OF A PETITION FOR STATEWIDE RECOGNITION. THE COUNTY OFFICER IN CHARGE OF ELECTIONS FROM EACH OF THE COUNTIES IN WHICH THE PETITION WAS FILED SHALL SUBMIT THE PETITIONS AND SIGNATURES TO THE SECRETARY OF STATE. WITHIN FIVE BUSINESS DAYS AFTER RECEIPT, THE SECRETARY OF STATE SHALL REMOVE THE FOLLOWING SIGNATURES THAT ARE NOT ELIGIBLE FOR VERIFICATION BY MARKING AN "SS" IN RED INK IN THE MARGIN TO THE RIGHT OF THE SIGNATURE LINE:

1. IF THE SIGNATURE OF THE QUALIFIED ELECTOR IS MISSING.

If the residence address or the description of residence location is missing.

3. IF THE DATE ON WHICH THE PETITIONER SIGNED IS MISSING.

D. THE SECRETARY OF STATE, DURING THE SAME FIVE BUSINESS DAY PERIOD PROVIDED IN SUBSECTION C, SHALL SELECT, AT RANDOM, TWENTY PER CENT OF THE TOTAL SIGNATURES ELIGIBLE FOR VERIFICATION BY THE COUNTY RECORDERS OF THE COUNTIES IN WHICH THE PERSONS SIGNING THE PETITION CLAIM TO BE QUALIFIED ELECTORS. THE RANDOM SAMPLE OF SIGNATURES TO BE VERIFIED SHALL BE DRAWN IN SUCH A MANNER THAT EVERY SIGNATURE ELIGIBLE FOR VERIFICATION HAS AN EQUAL

- 7 -

CHANGE OF BETHE LIBICADED IN THE SAMPLE, THE RANDOM SAMPLE PRODUCED SINLAR DISTITION PAGE AND LIME MINIBER. THE STRAINTHEE SELECTED SALL SELECTED SALL SELECTED SALL SELECTED SALL SELECTED SALL SELECTED SALL SELECTED SELECTION THE LIBERT SALD DEVALUE AND DEVALUE FROM THE BASE OF THE CERCIL EXTENDING LINTO THE LEFT

ė

# 20

2. IF A STRIKKTURE LINE SELECTED FOR THE RANDOM SAMPLE IS FOUND TO BE DIAM ON ALS REPORTS FABLE THE VEST LINE OF SELECTED FOR THE SELECTED FOR SELECTION CONTRIBETORY OF THE MEST PETITION OF THE WITH LINE OF THE TOWN THE MEST PETITION OF THE WITH LINE OF THE SELECTION OF THE ANDOM SAMEL. IF THE MEST PETITION OF THE MEST PET

PROVIDED.

IS. OTHERVISE AND, THE SEGNER NO DATE OF STONING IS PROVIDED. SIGNATURE .. IS ALLEBIBLE DAIDENTIFTABLE.

-A.. THE ADDRESS FARUTOEG. IS FLLECTBLE OF ADMENISTERS. B. THE INDIVIDUAL WAS NOT A DIVALETED TELECTOR. ON THE OATE OF SCHILLES

8 8 8 4 4 4 4 4 4 4 4

THE TRINITOINS WAS A MEDISTEREN VOTER BUT WAS BUT AN ELECTED.
AGE ON THE DATE OF STRAIN THE PETITION OR AFFRANTS.
THE STRAINING WAS DISTRIBLED AFFRACTOR WHEN THE STRAININGE. YEARS OF

AFFIDAVIT OF REGISTRATION. ON THE

2

3

7

8

9

10

11

12

13

14

15

16

17 18

19

20 21

22

23

24 25

26

27

29

- 8. IF A PETITIONER SIGNED HORE THAN ONCE, ALL BUT ONE OTHERWISE VALID SIGNATURE SHALL BE DISQUALIFIED.
- 9. FOR THE SAME REASONS ANY SIGNATURES COULD HAVE BEEN REMOVED BY THE SECRETARY OF STATE PURSUANT TO THIS SECTION.
- G. WITHIN THE SAME TIME PERIOD PROVIDED IN SUBSECTION F. THE COUNTY RECORDER SHALL CERTIFY TO THE SECRETARY OF STATE THE FOLLOWING:
- 1. THE NAME OF ANY INDIVIDUAL WHOSE SIGNATURE WAS INCLUDED IN THE RANDON SAMPLE AND DISQUALIFIED BY THE COUNTY RECORDER TOGETHER WITH THE PETITION PAGE AND LINE NUMBER OF THE DISQUALIFIED SIGNATURE.
- 2. THE TOTAL NUMBER OF SIGNATURES SELECTED FOR THE RANDOM SAMPLE AND TRANSMITTED TO THE COUNTY RECORDER FOR VERIFICATION AND THE TOTAL NUMBER OF RANDOM SAMPLE SIGNATURES DISQUALIFIED.
  - H. AT THE TIME OF THE CERTIFICATION. THE COUNTY RECORDER SHALL:
  - 1. RETURN THE FACSIMILE SIGNATURE SHEETS TO THE SECRETARY OF STATE.
- 2. SEND NOTICE OF THE RESULTS OF THE CERTIFICATION BY MAIL TO THE PERSON OR ORGANIZATION THAT SUBMITTED THE PETITIONS AND TO THE SECRETARY OF STATE.
- I. WITHIN TEN BUSINESS DAYS. AFTER RECEIPT OF THE FACSIMILE SIGNATURE SHEETS AND THE CERTIFICATION OF EACH COUNTY RECORDER. THE SECRETARY OF STATE SHALL DETERMINE THE TOTAL NUMBER OF VALID SIGNATURES BY SUBTRACTING FROM THE TOTAL NUMBER OF ELIGIBLE SIGNATURES IN THE FOLLOWING ORDER!
  - 1. ALL SIGNATURES THAT WERE FOUND INELIGIBLE BY THE COUNTY RECORDERS.
- 2. AFTER DETERMINING THE PERCENTAGE OF ALL SIGNATURES FOUND TO BE INVALID IN THE RANDOM SAMPLE. A LIKE PERCENTAGE FROM THOSE SIGNATURES REMAINING AFTER THE SUBTRACTIONS PERFORMED PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION.
- J. IF THE NUMBER OF VALID SIGNATURES AS PROJECTED FROM THE RANDOM 28 SAMPLE PURSUANT TO SUBSECTION I IS AT LEAST ONE HUNDRED PER CENT OF THE MENIMUM NUMBER REQUIRED BY THIS SECTION. THE PARTY SHALL BE RECOGNIZED. IF THE NUMBER OF VALID SIGNATURES AS PROJECTED FROM THE RANDOM SAMPLE IS LESS 30 31 THAN ONE HUNDRED PER CENT OF THE MINIMUM WUMBER. THE PARTY SHALL NOT BE 32 RECOGNIZED.

APPROVED BY THE GOVERNOR APRIL 18, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2011.

. 9 -

SB1471 - 501R - House Bill Summary

# HOUSE OF REPRESENTATIVES

Sponsor: Senator Gould SB 1471

P Committee on Judiciary

As Transmitted to Governor

DPA

Caucus and COW

SB 1471 makes from changes relating to state election law.

### HISTORY

In primary electrons, the sage hast general electron within the Recognition of new parties requirement for party nominees is at least one touth of 1% of the total vote for the winning case ingeneral election, the party cast at least 5% of the total votes for governor or presidential electors, Or if on November 1st of the total to be recognized as a continuous party that is at least 5% of the total votes for governor or presidential electors, Or if on November 1st of the total party has registered electors in the party that is at least two-thirds of 1% of the total registered votes in that pure eshold to be recognized as a continuous party must meet petition requirements at every general election. Parties wanting to be cost at every general election.

### PROVISIONS

- Accognition of new parties suites that, is determining the required number of signatures needed for new party recognition, the follows have different counties must be included as the country of registration, and At least 10% of the signatures must be registered in counters with populations less than 500,000.

- Extends the duration that a new political party is recognized to two regularly scheduled general ele
- Establishes the process by which a patition for recognition of a new political party is reviewed.
- Requires the county officer in charge of elections from each of the counties in which the patthes for Secretary of State (SOS)
- ires that within five days, the SOS must remove the following signal the signature of the questified elector a missing, the residence address of the description of residence location is missing the date on which the pathoner signed is missing
- diffes that the SOS must also select, at random, 20% of the total signare has an equal chance of being included in the sample.
- ates that after the selection of the random sample, the SOS must reproduce
- as that within 10 days after receiving the fo

- The address provided is illegible or nonexistent.

  The individual was not a qualified elector on the date of signing.

  The individual was a registered vater but was not at least 18 years of age on the date of signing. The signature was disqualified after companson with the signature of the affidavit of registration.
- Requires the county recorder to certify to the SOS the following:

  Ne name of any individual whose signature was included in the random sample and disqualified, together with the petition page and line.

  Ne total sumber of signatures selected for the random sample and the total number of signatures disqualified.
- Requires that the county recorder take the following actions at the time of certification.

  Return the focusing signature sheets to the 5OS;

  Return the focusing signature sheets to the 5OS;

  Send notice of the results of the certification by mall to the person or organization that submitted the petition to the 5OS.

- Mandales that, within 10 business days offer receipt of the facinities signature theets and the certification of each county recorder, the 505 must determine the total number of the total number of volid signatures by subtracting from the total number of eligible signatures in the following order:

  > All signatures found incligable by the county recorders
  > After determining the percentage of all signatures found to be invalid in the random temple, a like percentage of all signatures from these signatures remaining after the subtraction performed first.
  - Supulates that if the number of valid signatures as projected from the sample is at least 100% of the minimum number required by statute, then the party will be recognize
- Separates that if the number of valid signatures as projected from the sample is less than 100% of the minimum number required by statute, then the party will be not but
- Rases the number of qualified electors required to allow a precise to conduct a presidential preference election by mall from 200 to 300.
- Allows the county board of supervisors (BOS) to appoint as many election clerks as desired necessary to staff the prithary and general elections
- Ranses the number of qualified electors required to mandate that precents appoint at least one inspector and two judges from 200 to 300 and require the country chalman of countles that contain fewer than 300 qualified electors.

- Abadries the lenguage coatested on an early baller offident to include the following declarations

  That the voter is a registered voter in an Arzana county;

  That the voter understands that voting more than one of the section in a class \$ felony.

  That the voter understands that voting more than one is any election in a class \$ felony.

  That the voter understands that voting more than one is any election in a class \$ felony.

  That the voter that interest was assisted by another person in morking the belief, the person assisting must declare that they did so as directed by the voter was physically unable, that the person understands that there is no power of attainey for voting and that the voter must be able to make their own selection, along with their some and address.
  - Adds to the list of persons prohibited from ass indicate, compatigs, political organization or pol

Pittieth Legislature

Assegned to JUD

SB1471 - 501R - Senate Fact Sheet

AS ENACTED

ARIZONA STATE SENATE Fiftieth Legislature, First Regular Session

> FINAL AMENDED FACT SHEET FOR S B. 1471

county election law amendments

### Pumose

Modefies certain election law statules.

### Background

Elections are governed by federal and state law and administered under the authority of both the Secretary of State (SOS) and county and local elections officials. The Arizona Constitution, Arizona statutes, the Secretary of State Elections Procedures Manual and court opinions have helped to shape election law in Arizona.

There is no anticipated fiscal impact to the state General Fund

### Provisions

- Changes voter registration trugger numbers from fewer than 200 to fewer than 300 regulated voters or qualified electors for certain election functions, including a) conducting presidential preference elections by mail,
  b) appointment of inspectors and judgets to precinct election boards; and
  c) notice requirements to county chairman of the two largest polinical parties
- 2 Permits the county election board to appoint as many election clerks as deeped necessary before a general or primary election
- Changes early ballot affidavet foun language, including.

  a) requires a registered voter to declare under penalty of penjury the following

  by they have not voted or will not vote in this election in any other county or state;

  n they wood the enclosed ballot and personally aligned the affidavet, unless the voter was physically unable to mark the ballot solely due to illness, injury or physical they voted the enclosed ballot and personally aignor are allowed.

  the dimetation, and asknowledgement that knowingly voting more than once in an election is a class 5 fellowy asknowledgement that knowingly voting more than once in an election is a class 5 fellowy.

  b) requires a person who assists a voter with marking the voter's boilot to declare under penalty of perjury the following the assistance or marking the bellot is at the voter's request, if the ballot is marked as directly instructed by the voter, the assistance was provided because the voter was physically unable to mark the ballot solely due to allness, injury or physical limitation, asknowledgement that there is no power of astroney for voting, and the voter must be able to make their selection even if they cannot physically mark the ballot.

https://www.axieg.gov/legtex650leg/1r/summary/s 1471 Jud\_asenacted.doc.htm.

881471 - 801R - Senate Fact Shelet

- 4. Requires the voter assistant to provide their name and address on the affidavit.
- Expands the prohibitions for voter assistance at the polls to include employees or volunteers for a candidate, campaign, political cognitization or political party, and precinct committeemen.
- Specifies new party representation petrition segmanare requirements, including a requirement that agrantines come from at least five different counters, with 10 percent of the petrition segmanters coming from counters with a population less than 500,000. ó
- Expands new party representation recognition from two years to fear years before requiring the party to qualify for continued representation
- Provides requirements for new party representation petition filling and petition signature verification requirements similar to the process found in initiatives and referrindums, which metides specified random sampling formulas and segnature verification requirements
- Specifies tunctrame for signature venfication by the SOS and county recorders, as five business days and ten business days respectively, regarding petitions for recognition of a new political party
- 10 Makes technical and conforming changes
- 11 Becomes effective on the general effective date

# Amendment's Adopted by Squate Committee of the Whole

- · Modifies proposed early ballot envelope affidave language
- Specifies unseframe for signature verification by the SOS and county recorders, as five business days and ten business days re of a new political party

# Amendments Adopted by House of Representatives

- Modifies the prohibitions for votar assessment at the polls to include employees or volunteers of polatical organizations or polatical parties.
- · Makes technical changes

משונו סף 60-2-0 חשם	Senate Action				House Action		
03/09/11 29-0-1-0 3" Read	Jul Read	03/09/11	å	29-0-1-0		04/12/11	S7-2-1-0

Signed by the Governor 64/18/11 Chapter 166 Prepared by Senate Research

	Principal Assistant City Attorney for				
2	Jennifer Stash Senior Assistant City Attorney				
3	Michael G. Rankin				
-	P.O. Box 27210				
4	Tucson, AZ 85726-7210				
5	Telephone: (520) 791-4221 Fax: (520) 623-9803				
	Dennis McLaughlin@tucsonaz gov				
6	State Bar No. 9197 Pima County Computer No. 37748				
7	Jennifer Stath/Attucsonaz gov State Bar No. 29848				
1	Pima County Computer No. 124942				
8	Attorney for Defendants Roger Randolph, City of Tucson ("hered	fier City Defendants")			
9	IN THE SUPERIOR COURT OF THE STATE OF ARIZONA				
10	IN AND FOR THE	COUNTY OF PIMA			
11					
12	GREEN PARTY OF PIMA COUNTY,	No. C20192885			
	Di-i-sige				
13	Plaintiff,	DECLARATION OF			
14	vs.	ROGER W. RANDOLPH			
		10000			
15	ROGER RANDOLPH, in his official				
16	capacity; CITY OF TUCSON,				
17		(Assigned to Hon. D. Douglas Metcalf)			
1/	Defendants.				
18	-				
19	Pursuant to ARIZ. R. Civ. P. 80(i), ROGER	W. RANDOLPH hereby declares under penalty of			
20	perjury under the laws of the State of Arizona that	the following is true and correct:			
21	1. I am the Tucson City Clerk and	the City of Tucson ("the City") Campaign Finance			
22	Administrator—the public officer responsible for	r promulgating, in accordance with state law and the			
23	Tucson Charter, rules, regulations, procedures, a	nd forms necessary to conduct City elections, and for			
24	carrying out the provisions of the Tucson Char	ter and City Code pertaining to the conduct of City			
25	elections.				
26	2. I am also named in my official ca	spacity only as a Defendant in Green Party of Pime			
27	County v. Roger Randolph; City of Tucson, Pima	County Superior Court Case No. C20192885.			
28					
100					

Dennis P. McLaughlin

- I have been involved in administering City elections since 1997. I have been the officer
  in charge of City elections since 2008. I am certified as an elections official by the State of Arizona.
- 4. I make this declaration based on my personal knowledge and experience, my reviews of files maintained by the City Clerk's Office, and my review of material prepared by my office at the specific request of the City Attorney's Office.
- 5. Neither prior to nor since the 2011 amendment of A.R.S. § 16-801 to add subsection (B) has the City Clerk's Office ever administratively interpreted A.R.S. § 16-801 to apply to qualification of parties for the City's ballot. We have always interpreted A.R.S. §§ 16-802, 803, and 804 to be the statutes that exclusively govern qualification of parties for the City's ballot.
- 6. On March 17, 2017, I completed the process described in Arizona Revised Statutes (A.R.S.) § 16-803(B), subsections 2 through 5, to certify the Green Party of Pima County ("Green Party"), and certified that, pursuant to A.R.S. § 16-803(I), the Green Party would be recognized and, pursuant to A.R.S. § 16-802, would be represented by an official party ballot at the August 29, 2017 Primary Election.
- There has been no mayoral election in Tucson since my 2017 certification of the Green Party, so A.R.S. §16-804(A) had no potential application to the Green Party in 2019.
- 8. In accordance with A.R.S. §16-804(B), the City Clerk's Office, through Assistant City. Clerk Suzanne Mesich, informed the Green Party on February 7, 2019 it would need to have voter registration equal to "at least two-thirds of one percent of the total registered voters in the City of Tucson" by March 25, 2019 if it wished to remain qualified for the City of Tucson ballot.
- By March 25, 2019, the Green Party had not taken any further action be qualified for placement on the August Primary Election ballot.
- 10. On April 9, 2019, I gave notice that the Democratic Party, the Republican Party and the Libertarian Party had qualified for placement on the ballot for the City of Tucson Primary Election to be held on August 27, 2019.
- 11. For a candidate to be listed on the Primary Election ballot, the required paperwork needed to be submitted between April 29 through May 29, 2019 at 5:00 p.m. The required paperwork

includes; the Nomination Paper and Declaration of Qualification and Eligibility, Financial Disclosure Statement and Nomination Petitions.

- As of May 29, 2019 at 5:00 p.m., the Green Party had not submitted any nomination papers for candidates in the Primary Election.
- 13. Ninety days prior to an election, postcards are sent to all eligible voters in the City of Tucson informing them of the upcoming election. Voters registered as Democrat, Republican and Libertarian receive a postcard specific to their registered party. For those voters registered as Independent or with a party that did not qualify for placement on the ballot, they receive a postcard that provides the voter an option to select a partisan ballot from the eligible parties. These postcards were mailed out on May 29, 2019 and must be returned by July 12, 2019.
- 14. The Green Party registered voters received this postcard, asking them to select either a Democrat, Republican, or Libertarian ballot, should they choose to vote in the August Primary Election. Some members of the Green Party have returned their postcards, electing a specific ballot to which they requested to vote from. Although the Libertarian Party does not have any official candidates for the Primary Election they will run a closed Primary. Therefore, anyone not registered as Libertarian is ineligible to vote a Libertarian Party ballot.
- 15. The City Clerk's Office mails a pamphlet titled, "The Choice is Yours" to each household with a registered voter in the City of Tucson. The pamphlet includes details about the upcoming election, which candidates are on the ballot and directs voters to where they can find more information about the candidates.
- 16. "The Choice is Yours" pamphlet is specific to each ward. A voter in Ward 1 will receive a pamphlet that displays all of the eligible ballots and corresponding candidates for each of the qualified parties. This year, the parties will include the Democratic Party, the Republican Party and the Libertarian Party.
- To date, these pamphlets are in the printing process with the contracted printing company.

### C20192885

- 18. The ballots for the August Primary Election have been ordered, printed and delivered to the City Clerk. The ballots were ordered for the Democratic Party, the Republican Party and the Libertarian Party.
- 19. In the event a party does not have a candidate running in a particular election, no candidate is listed but a write-in spot is designated should a voter decide to vote in that manner.
- 20. Because the Green Party was not qualified to be on the ballot for the August Primary Election, no Green Party ballots were ordered. However, due to this pending litigation, the City Clerk's Office has submitted a rush order to have Green Party ballots printed, in case there is a Court ruling adverse to the City. As a result, the City Clerk's Office has had to incur additional charges and spent many administrative hours to ensure the office is prepared.

PURSUANT TO ARIZ. R. CIV. P. 80(i), I HEREBY DECLARE (OR CERTIFY, VERIFY, OR STATE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED on this 21st day of June, 2019.

Roger W. Randolph

City Clerk City of Tucson