

ARIZONA LEGISLATIVE COUNCIL

MEMO

June 13, 2023

TO: Representative Gail Griffin
FROM: Hannah Nies, General Counsel
RE: Elected precinct committeeperson; statutory removal process (R-56-38)

QUESTION

What is the process set out in statute to remove an elected precinct committeeperson?

ANSWER

There is no statutory provision that prescribes a removal process specific to precinct committeepersons. However, there are various statutory provisions prescribing when a vacancy occurs in the office of precinct committeeperson. If a vacancy is established under one of these provisions or if a precinct committeeperson no longer meets the statutory qualifications for office, it is possible that the person may be removed from office via a quo warranto proceeding.

DISCUSSION

We were unable to identify any statutory provision that prescribes a removal process in statute specific to precinct committeepersons. However, we were able to identify various provisions in statute that prescribe when a vacancy occurs in the office of precinct committeeperson. For example, Arizona Revised Statutes (A.R.S.) section 16-821, subsection B provides in relevant part as follows:

The board of supervisors upon the recommendation of the county chairman, or the recommendation of a committee designated in the bylaws of the county committee for that purpose, shall determine when a vacancy exists in the office of precinct committeeman. . . . The criteria used to establish when a vacancy exists in the office of precinct committeeman shall be as established in [A.R.S.] section 38-291.¹

¹ Under A.R.S. section 38-291, an office is deemed vacant upon the occurrence of any of twelve specified events before the expiration of a term of office, including death, insanity, resignation, removal, unexcused

Additionally, A.R.S. section 16-822, subsection D provides that "[i]n addition to other provisions of law regarding removal from office, a vacancy shall exist in the office of precinct committeeman when the precinct committeeman moves from the precinct from which elected or changes political party from the party in which the precinct committeeman was elected."

Moreover, the statutes also prescribe eligibility requirements for the office of precinct committeeperson. For example, under A.R.S. section 16-822, subsection A, "[a]ny member of a recognized political party who is a registered voter in the precinct is eligible to seek the office of precinct committeeman of that party in that precinct."

If an office of precinct committeeperson is deemed vacant under one of the provisions described above and the person refuses to vacate the office or if a precinct committeeperson no longer meets the eligibility requirements prescribed by law, it is possible that the person may be removed from office via a quo warranto proceeding. Generally, a quo warranto proceeding may be brought against "any person who usurps, intrudes into or unlawfully holds or exercises any public office² or any franchise." A.R.S. sections 12-2041, 12-2042 and 12-2043.

absence from the state exceeding three consecutive months, ceasing to discharge duties of office for three consecutive months and conviction of a felony.

² "Public office" is not defined for the purposes of the quo warranto statutes. *See* title 12, chapter 11, article 3. We were unable to identify any case that examined whether a precinct committeeperson is included in this term. It is reasonable to conclude, however, that precinct committeepersons are included. Various constitutional and statutory provisions specifically provide that "public office" includes a precinct committeeperson. *See, e.g.*, A.R.S. section 16-955, subsection B ("Each candidate shall be a qualified elector who has not, in the previous five years in this state, been appointed to, been elected to or run for any public office, *including precinct committeeman*, or served as an officer of a political party.") (emphasis added); Ariz. Const. art. IV, Pt. 2 § 1 ("Within the three years previous to appointment, members shall not have been appointed to, elected to, or a candidate for any other public office, *including precinct committeeman or committeewoman* but not including school board member or officer, and shall not have served as an officer of a political party, or served as a registered paid lobbyist or as an officer of a candidate's campaign committee.") (emphasis added). The statutes provide that a quo warranto proceeding may be brought against "any person who usurps, intrudes into or unlawfully holds or exercises *any* public office." A.R.S. sections 12-2041, 12-2042 and 12-2043. The office of precinct committeeperson is clearly a public office under certain provisions.