

PRESCOTT RESOLUTION #5

Urging the Legislature to amend Titles 16 and 19 to provide for independent agency review of municipal candidate election issues

Submitted by: Prescott

A. Purpose and Effect of Resolution

Municipalities conduct elections on a regular basis. While current election law allows a City Clerk to engage in ministerial duties in order to maintain the City's posture of fairness, impartiality and neutrality, at times the government is criticized for failing to engage in strict candidate qualification review. Municipalities are accused of bias if a non-ministerial review is conducted or if one is not. In most instances, under Titles 16 and 19, the onus to file an election challenge on non-ministerial matters falls on the electors, and the only avenue for such a challenge is to file a lawsuit. These citizens bear the expense and cost of such legal challenges. In order to provide for challenges that ensure compliance with applicable election laws and candidate qualification laws, and to ensure that the election processes are both fair and lawful, it is recommended that current statutes be amended to provide for independent agency review on candidate issues and challenges. The independent agency could be the County or the Attorney General's Office, or any similar agency not connected to the municipality. The effect of this resolution will be to provide a neutral avenue which allows review of candidate challenges by an agency not involved in the election process and which allows for an alternative to citizens having to file individual suits and incur out of pocket expenses in order to pursue legal challenges.

B. Relevance to Municipal Policy

The public perception of neutrality and fairness is essential to the election process. When a candidate files a nomination paper, petitions, financial statements or other candidate documents, including a candidate or circulators affidavit, a local government is placed in a situation where its impartiality may be questioned, whether the municipality acts or whether it cannot act as a matter of law. If a municipality does not perform non-ministerial review, it can be accused of bias. Similarly, if it undertakes any non -ministerial review it can be accused of favoring a particular candidate or candidates. For this reason, having these types of issues subject to a complaint driven review process will serve the dual purpose of legal candidacy and ensuring the public perception of election fairness.

C. Fiscal Impact to Cities and Towns

There would be a minimal fiscal impact, mostly associated with staff time and supply of necessary documents to an independent agency for review.

D. Fiscal Impact to the State

Fiscal impact to the State would include staff time for and expenses associated with any review of any candidate election complaints. Intergovernmental agreements providing for mutual election aid could be utilized to lessen or equalize any costs for the entities involved in the review processes.

E. Contact Information

Prescott Resolution #1

Name: Joseph Brehm
Phone: (928) 777-1279

Title: Intergovernmental Relations
Email: Joe.Brehm@prescott-az.gov