

REPORT ON THE STRUCTURE OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT IN ARIZONA:

At our last convention, the state league adopted a new study that was to be an update on reorganizing the executive branch of our state government. Our present position is in support of measures to strengthen the executive branch of the state government and to integrate administration by centralizing authority and responsibility in the governor. This position was adopted in 1963. Although opened for updates throughout the years, there appears to be no change to that position.

Over the summer, our committee has been communicating by email. We believe that the purpose of our study is for the league to have a position on whether Arizona should have a Lieutenant Governor, and, if so, how that individual should be selected and what that individual's duties should be. We also wanted the league to have a position on how the Secretary of State should be selected and whether that individual should be first in line to take over the governorship if the position became vacant.

We looked at what was happening across the United States and chose four states, three that were the most highly rated by the PEW Organization and Illinois, since it has been in the news regarding its problems with its Governor and its Democratic candidate for Lieutenant Governor.

Arizona is only one of five states that does not have a lieutenant governor. The other four are Maine, New Hampshire, Oregon and Wyoming. Twenty-five states elect lieutenant governors on the same ballot with the governor. Eighteen states elect their lieutenant governors separately, and ten of those have their governor and lieutenant governor representing different parties. West Virginia has the state senate choose its lieutenant governor. In Texas, the person elected Speaker of Senate also holds the Office of Lieutenant Governor.

The PEW organization rates the performance of all the states. Those states receiving the highest rating (A-) are Utah, Virginia, and Washington. Those states that received a B+ are Delaware, Georgia, Michigan, Missouri, and Texas. Indiana, Iowa, Louisiana, Maryland, and Nebraska received B- ratings. It was interesting to note that none of states at the top of the rating scale are ones that do not have a lieutenant governor. In fact, New Hampshire was rated at the very bottom. Arizona was given a C+.

In the United States, 43 of the 50 states have a separate, full-time office of lieutenant governor. In most cases, the lieutenant governor is the highest officer of state after the governor, standing in for that officer when he or she is absent from the state or temporarily incapacitated. In the event a governor dies, resigns or is removed from office, the lieutenant governor typically becomes governor. (In some states, however, such as Massachusetts, the lieutenant governor becomes acting governor until the next election.)

In 25 states, the governor and lieutenant governor are elected on the same ticket, ensuring that they come from the same political party. In the remaining 18 states, they are elected separately and, thus, may come from different parties. The lieutenant governor is also frequently the presiding officer of the upper house of the state legislature (usually called the Senate). (This mirrors the federal role of the Vice President of the United States as President of the Senate.)

Among the seven states without a separate, full-time office of lieutenant governor, two states have a post of lieutenant governor that is filled by the highest officer of the state Senate. In Tennessee, the full title of

the leader of the Senate is "Lieutenant Governor and Speaker of the Senate". In West Virginia, the title of Lieutenant Governor is assigned by statute to the Senate President.

Of the remaining five states, the president of the state senate assumes the governor's office upon a vacancy, in two states, Maine and New Hampshire.

In the remaining three states — Arizona, Oregon and Wyoming — and in the U.S. territory of Puerto Rico, the Secretary of State becomes Governor upon the office's vacancy.

In a few states, including Hawaii and Utah, the office of Lieutenant Governor includes the duties of Secretary of State.

The U.S. commonwealth of the Northern Mariana Islands and the U.S. territories of American Samoa, Guam, and the Virgin Islands have the office of Lieutenant Governor.

The main reason for having an Office of Lieutenant Governor is to clarify succession should the Governor become incapacitated, die while in office, or resign the office before the end of the term. All states stipulate their rules of succession in their constitutions; however when citizens elect a lieutenant governor, they know that person is next in line to run the state.

The main reason not to have a separate office for the position of lieutenant governor is probably to save money.

How do the states rated best in the United States structure their executive branch?

In Utah the candidates for governor and lieutenant governor run jointly on a team ticket in the general election. The gubernatorial candidate selects the lieutenant governor as her/his running mate. Utah abolished its office of Secretary of State and gave those duties to the newly created office of Lieutenant Governor in 1975. These duties include oversight of all Notaries Public, legal authentication of documents, maintaining oversight and regulation of registered lobbyists, serving as keeper of the Great Seal of the State, and most importantly, maintaining oversight authority over all elections that take place in Utah.

In the states of Washington and Virginia, the Lieutenant Governors are elected separately and, therefore may be of different parties. In both states the Lieutenant Governors serves as President and presiding officers of the State Senate and are first in line of succession to the Governor.

In the top three rated state governments, duties of the lieutenant governor are fully spelled out, and in all cases, the positions have been elected by voters who chose the person they wanted to take over should the elected governor have to leave office. Although having their lieutenant governors elected separately tends to work in Washington and Virginia, most states have opted to have their Governors and Lieutenant Governors run together in the General Election and most allow the winner of the state primary for governor to pick his/her running mate.

According to Julia Hurst, executive director of the National Lieutenant Governors Association, there are about six lieutenant governors who are directors of homeland security, and about eight who are designated to run or work in their state's economic development division. In Indiana, the lieutenant governor, currently Becky Skillman, has multiple roles set out by law, including head of the State

Department of Agriculture, the Office of Community and Rural Affairs, the Office of Energy Development, the Office of Defense Development, the Indiana Housing and Community Development Authority, and the Office of Tourism Development. The lieutenant governor also serves as the president of the Indiana Senate. In two states, the Senate president has the title and succession responsibility of lieutenant governor.

In Illinois, the lieutenant governor and governor run on a joint ticket and are directly elected by popular vote. Candidates for lieutenant governor run separately in the primary from candidates for governor. When the Governor of Illinois becomes unable to discharge the duties of that office, the lieutenant governor becomes acting governor. If the Governor dies, resigns or is removed from office, the lieutenant governor becomes governor. The office is currently vacant. Under the Illinois Constitution, the Attorney General is next in line of succession until the next lieutenant governor's term begins.

Recent events in Illinois point out the problem of separate primary elections for the Office of Lieutenant Governor. The winner of the Democratic primary decided to drop out of the race after serious criminal and ethical concerns were uncovered. This situation was not only embarrassing to the Democrats, but it also left them with the task of selecting a replacement to run in his place. After watching his own running mate's candidacy implode, Governor Pat Quinn indicated that he favors legislation that would require the candidates for governor and lieutenant governor to run as a team in the primary. "That's probably something that I would favor, but I want to look at the bill," Quinn said. "Then the candidate of governor can tell the people who he or she wants as their running mate."

Recently, Arizona experienced a change of leadership when Governor Janet Napolitano (a Democrat) left office before the end of her term. As per the Arizona constitution, the Secretary of State (a Republican) became governor. The legislature decided to place a resolution on the ballot in November, 2010 to amend the constitution to rename the Office of Secretary of State to become the Office of Lieutenant Governor. This resolution, Proposition 111, proposed that the candidate who wins the primary as her/his party's nominee for Lieutenant Governor would then run on the same ticket as her/his party's nominee for Governor. Voters would cast one ballot containing both the names of the Governor and Lieutenant Governor of their choice. Starting with the beginning of the legislative session in 2015, the Lieutenant Governor, elected in the 2014 election, would handle all the duties currently performed by the Secretary of State, including assuming the position of Governor if that position is vacated during the term of office.

This amendment would have Arizona elect a lieutenant governor in the same manner as Illinois. It also, as is done in Utah, eliminates the Office of Secretary of State and places those duties under those of the lieutenant governor. Voters rejected this amendment.

In addition to determining whether AZ should have a lieutenant governor, the issue of the role of the Secretary of State was considered. Should the league be concerned that the Secretary of State, elected in partisan elections, is first in line to become Governor should that position become vacant? What would be the best practices to ensure citizens have confidence in how Arizona oversees its elections?

FairVote studied the issue of how elections are administrated and concluded as follows:

"To guarantee the integrity of the voting process, partisan officials should not make decisions about election administration. Nonpartisan observers should have full access to the electoral process."

In almost every state, the secretary of state or an appointed election official administers elections. Even though these officials are responsible for executing state and federal electoral policy and setting election procedures, there are few standards to which election officials must adhere. Most election officials are law-abiding and execute laws to the best of their ability. Yet, without standards or requirements in place there is no guarantee all election administrators will act in this manner, as recent elections have demonstrated.

Secretaries of state serving as state campaign chairs create the appearance of a conflict of interest, even if none exists. In the past two election cycles, the secretaries of state in two battleground states came under intense scrutiny because of their connection with presidential campaigns. Secretaries of State Katherine Harris and J. Kenneth Blackwell served as state chairs for Bush-Cheney in 2000 and 2004, respectively. Although no one formally accused these individuals of wrongdoing, the perception of impropriety is enough to undermine the legitimacy of the electoral process.

Policy Recommendations:

- Election officials cannot serve as state chairs of campaigns or candidates and clear restrictions should be in place regulating all involvement of election officials in political campaigns.
- Election officials must set electoral policies well in advance of an election.
- To avoid even the question of partisanship, election policies and procedures should be set by a committee of officials who are non-partisan and/or represent a wide-range of political beliefs.”

Consensus Questions:

1. In our current system, the Office of the Secretary of State is next in the line of succession for the Office of the Governor. Does this system work well for Arizona or should it be changed?
2. Does the possibility of changing the party of the Governor’s office during the term (with a change in Governor) present any problems to the state?
3. If Arizona were to keep its current system, would it be advisable to require the Governor and Secretary of State to run on a same-party ticket?
4. Does Arizona need to clarify its line of succession in the mind of the public by having a lieutenant governor?
5. Should a Lieutenant Governor also serve as Secretary of State?
6. Is it worth an increase in the state budget to have both a Lieutenant Governor and a Secretary of State?

7. If there were a new and separate office of Lieutenant Governor, what would be the best way to elect the office?

a. separately on the ballot from the governor in primary and general elections;

b. separately from the governor on the primary ballot, but appearing on the same ballot with the winning primary candidate for governor from the same party; or

c. chosen by the winning primary candidate for governor to run on the same ticket in the general election?

8. If there were a separate office for Lieutenant Governor, what duties should be assigned?

9. Whether the office of Secretary of State is next in the line of succession or not, should the office be an elected or appointed position?

10. If elected, is it important for the candidates for the Office of Secretary of State, which is charged with overseeing all Arizona elections, to campaign and run in races that are non-partisan (with no political party affiliation noted)?

11. If a separate office of Secretary of State were appointed (outside the line of succession) but by the Legislature or Governor, how would it be possible for the office to provide nonpartisan service?

12. If the Secretary of State were appointed, what nominating and appointing procedures should be adopted?

13. Are there other unusual solutions including a different line of succession that might be more affordable to the state?

14. Are there other unusual solutions including a different line of succession that might be more beneficial to the state?

Respectfully submitted for consideration,

The Executive Branch Workshop,

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