

BAUMERT - Originator
ROZAR - Concurred
MACALUSO "
CASEY "
KENNEDY "

March 8, 1961
Opinion No. 61-12

REQUESTED BY: Harold A. Beelar
Gila County Attorney

OPINION BY: ROBERT W. PICKRELL
The Attorney General

QUESTION: Does A.R.S. §16-897 apply to
the special primary election
of March 7, 1961, and the
special general election of
May 2, 1961?

CONCLUSION: Yes.

In arriving at our conclusion, we refer to Attorney
General's Opinion No. 61-11 of March 6, 1961, which states
the following:

"Merely, because it is a special primary
and special general election does not
mean it is any different from the usual
biennial elections spoken of in the defi-
nition. The special election called pur-
suant to the Governor's proclamation is
special only in the sense that it refers
to an election to replace an elected of-
ficial (Stewart L. Udall) whose office
was vacated in a manner other than the
expiration of his normal term of office.
In every other sense it is a primary and
general election."

It follows that keeping in mind Attorney General's
Opinion No. 54-262-L of November 26, 1954, which stated
that a primary election was included in the term "general
election" under the then statute §55-514 now §16-897, and
the recent opinion above cited, No. 61-11, the word "special"
is only special in the sense that it refers to an election
to replace an elected official whose office was vacated in
a manner other than the expiration of his normal term of
office. In Bolin v. Superior Court, 85 Ariz. 131, the
Court held "a vacancy shall be filled at a general election
as provided by law," means that the vacancy in the office
of the Corporation Commission such as existed there must

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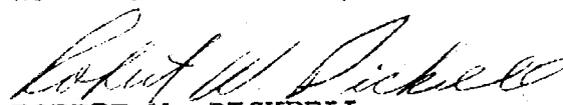
Mr. Harold A. Beelar
Gila County Attorney

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be filled at the next general election closest in point of time after the vacancy occurs," (Emphasis supplied). The next general election to fill the vacancy now in question is the special primary and special general election closest in time as provided under A.R.S. §§ 16-704 and 16-705.

It is, therefore, the opinion of this office that A.R.S. §16-897 applies.

ANDY BAUMERT
Assistant Attorney General


ROBERT W. PICKRELL
The Attorney General

AB:c
61-12

CLARK KENNEDY-ORIGINATOR
R.W. PICKRELL-CONCURRED

Re: OPINION NO. 61-12
April 24, 1961

Our office rendered an opinion on whether or not persons who were entitled to vote at the primary and special general elections on May 2, 1961 could, under A.R.S. §16-897, obtain from their employers the time specified therein to vote.

The answer was "yes" and was rendered in Opinion 61-12, _____ copies of which are attached.

This opinion construed A.R.S. §16-897, and to assist you we set forth this statute verbatim.

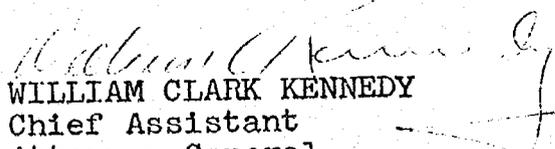
"16-897. Right of employee to vote; application for absence from employment; violation of rights; penalty

A. A person entitled to vote at a general election held within this state may, on the day of election, absent himself from the service or employment at which he is employed for a period of two hours between the time of opening and closing the polls, and he shall not, because of such absence, be liable to any penalty, nor shall any deduction be made therefor from his usual salary or wages. Application shall be made for such absence prior to the day of election, and the employer may specify the hours during which the employee may absent himself.

B. A person who refuses an employee the privilege conferred by this section, or who subjects an employee to a penalty or reduction of wages therefor, or who directly or indirectly violates the provisions of this section, is guilty of a misdemeanor."

Respectfully,

ROBERT W. PICKRELL
The Attorney General


WILLIAM CLARK KENNEDY
Chief Assistant
Attorney General

WCK:gb
Enc. Opinion 61-12

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