



**Cochise County  
Attorney's Office  
Civil Division**

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**BRIAN M. McINTYRE**  
Cochise County Attorney

April 06, 2021

The Honorable Mark Brnovich  
Arizona Attorney General  
1275 West Washington  
Phoenix, Arizona 85007

Re: Opinion Request Regarding ARS 48-2010

Dear Attorney General Brnovich:

**QUESTION PRESENTED**

What is required to satisfy the requirements of ARS 48-2010(F) when no qualified electors of the district are willing to be appointed, and a quorum does not exist?

**BACKGROUND**

If a sanitary district, that is not governed by a county board of supervisors, lacks a quorum, a county board of supervisors is statutorily obligated to appoint a qualified elector of the district to fill the vacancy. See ARS 48-2010(F). Naco Sanitary District lacks a quorum because of multiple resignations. The Cochise County Board of Supervisors attempted repeatedly to identify any qualified electors of the district willing to be appointed to the Naco Sanitary Board of Directors. No qualified electors were willing to be appointed.

**ARS 48-2010**

The text of ARS 48-2010(F) reads:

For a district that is not governed by the board of supervisors, if a vacancy occurs on the district board due to death, disability, resignation or any other cause, the board of directors of the sanitary district shall appoint a qualified elector of the district to fill the office for the remaining portion of that term, except that if the remaining directors do not constitute a quorum, the county board of supervisors shall make the appointment to fill the vacancy.

The Cochise County Board of Supervisors attempted in good faith to comply with the statutorily-imposed obligation but was unsuccessful. Advertisements were placed in local publications, and recruiting

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announcements were made at public events. The typical response to these efforts was that no qualified elector was willing to work with the two remaining members of the sanitary district board of directors. The Cochise County Board of Supervisors is not capable of satisfying the requirement of ARS 48-2010 if no one is willing to accept an appointment.

### CONCLUSION

Our conclusion is that ARS 48-2010 requires a good faith effort be made to appoint sufficient directors to create a quorum. Any more substantial obligation than a good faith effort is unduly burdensome, and as evidenced by the events of Naco Sanitary District, potentially impossible to comply with.

We look forward to hearing from you in this matter. If you have any questions, please do not hesitate to contact us.

Sincerely,

Brian McIntyre  
Cochise County Attorney

By: 

Kris Carlson  
Deputy County Attorney