

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1557

AN ACT

AMENDING SECTIONS 16-411, 16-445 AND 16-621, ARIZONA REVISED STATUTES;
RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-411, Arizona Revised Statutes, is amended to
3 read:

4 16-411. Designation of election precincts and polling places:
5 electioneering

6 A. The board of supervisors of each county ~~shall~~, on or before
7 December 1 of each year preceding the year of a general election, by an
8 order, **SHALL** establish a convenient number of election precincts in the
9 county and define the boundaries thereof. Such election precinct boundaries
10 shall be so established as included within election districts prescribed by
11 law for elected officers of the state and its political subdivisions
12 including community college district precincts, except those elected officers
13 provided for in titles 30 and 48.

14 B. Not less than twenty days before a general or primary election, and
15 at least ten days before a special election, the board shall designate one
16 polling place within each precinct where the election shall be held. Upon a
17 specific finding of the board, included in the order or resolution
18 designating polling places pursuant to this subsection, that no suitable
19 polling place is available within a precinct, a polling place for such
20 precinct may be designated within an adjacent precinct. Adjacent precincts
21 may be combined if boundaries so established are included in election
22 districts prescribed by law for state elected officials and political
23 subdivisions including community college districts but not including elected
24 officials prescribed by titles 30 and 48. The officer in charge of elections
25 may also split a precinct for administrative purposes. Any such polling
26 places shall be listed in separate sections of the order or resolution.

27 C. If the board fails to designate the place for holding the election,
28 or if it cannot be held at or about the place designated, the justice of the
29 peace in the precinct ~~shall~~, two days before the election, by an order,
30 copies of which he shall immediately post in three public places in the
31 precinct, **SHALL** designate the place within the precinct for holding the
32 election. If there is no justice of the peace in the precinct, or if the
33 justice of the peace fails to do so, the election board of the precinct shall
34 designate and give notice of the place within the precinct of holding the
35 election. For any election in which there are no candidates for elected
36 office appearing on the ballot, the board may consolidate polling places and
37 precinct boards and may consolidate the tabulation of results for that
38 election if all of the following apply:

39 1. All affected voters are notified by mail of the change at least
40 thirty-three days before the election.

41 2. Notice of the change in polling places includes notice of the new
42 voting location, notice of the hours for voting on election day and notice of
43 the telephone number to call for voter assistance.

44 3. All affected voters receive information on early voting that
45 includes the application used to request an early voting ballot.

1 D. The board is not required to designate a polling place for special
2 district mail ballot elections held pursuant to article 8.1 of this chapter,
3 but the board may designate one or more sites for voters to deposit marked
4 ballots until 7:00 p.m. on the day of the election.

5 E. Except as provided in subsection F **OF THIS SECTION**, a public school
6 shall provide sufficient space for use as a polling place for any city,
7 county or state election when requested by the officer in charge of
8 elections.

9 F. The principal of the school may deny a request to provide space for
10 use as a polling place for any city, county or state election if, within two
11 weeks after a request has been made, he provides a written statement
12 indicating a reason the election cannot be held in the school, including any
13 of the following:

- 14 1. Space is not available at the school.
- 15 2. The safety or welfare of the children would be jeopardized.

16 G. The board shall make available to the public as a public record a
17 list of the polling places for all precincts in which the election is to be
18 held including identification of polling place changes that were submitted to
19 the United States department of justice for approval.

20 H. Except in the case of an emergency, any facility that is used as a
21 polling place on election day shall allow electioneering and other political
22 activity outside of the seventy-five foot limit prescribed by section 16-515
23 in public areas and parking lots used by voters.

24 **I. THE SECRETARY OF STATE SHALL PROVIDE THROUGH THE INSTRUCTIONS AND**
25 **PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452 THE MAXIMUM ALLOWABLE**
26 **WAIT TIME FOR ANY ELECTION AND PROVIDE FOR A METHOD TO REDUCE VOTER WAIT TIME**
27 **AT THE POLLS IN THE PRIMARY AND GENERAL ELECTIONS. THE METHOD SHALL CONSIDER**
28 **AT LEAST ALL OF THE FOLLOWING FOR PRIMARY AND GENERAL ELECTIONS IN EACH**
29 **PRECINCT:**

- 30 1. THE NUMBER OF BALLOTS VOTED IN THE PRIOR PRIMARY AND GENERAL
31 ELECTIONS.
- 32 2. THE NUMBER OF REGISTERED VOTERS WHO VOTED EARLY IN THE PRIOR
33 PRIMARY AND GENERAL ELECTIONS.
- 34 3. THE NUMBER OF REGISTERED VOTERS AND THE NUMBER OF REGISTERED VOTERS
35 WHO CAST AN EARLY BALLOT FOR THE CURRENT PRIMARY OR GENERAL ELECTION.
- 36 4. THE NUMBER OF ELECTION BOARD MEMBERS AND CLERKS AND THE NUMBER OF
37 ROSTERS THAT WILL REDUCE VOTER WAIT TIME AT THE POLLS.

38 Sec. 2. Section 16-445, Arizona Revised Statutes, is amended to read:
39 **16-445. Filing of computer election programs with secretary of**
40 **state**

41 A. For any state, county, school district, special district, city or
42 town election, including primary elections, utilizing vote tabulating devices
43 as provided in this article, there shall be filed with the secretary of state
44 at least ~~two weeks~~ **TEN DAYS** before the date of the election a copy of each
45 computer program for each election. **THE SECRETARY OF STATE SHALL HOLD ALL**

1 COMPUTER PROGRAM SOFTWARE FILED PURSUANT TO THIS SECTION IN ESCROW FOR THREE
2 YEARS. THE SECRETARY OF STATE SHALL SECURELY DESTROY THE SOFTWARE FILED
3 PURSUANT TO THIS SECTION ON THE EXPIRATION OF THE THREE YEAR PERIOD.

4 B. A copy of any subsequent revision of the computer program shall be
5 filed in the same manner within forty-eight hours following the revision.

6 C. Any tape or disc used in the programming or operation of a vote
7 tabulating device upon which votes are counted and any tape used in compiling
8 vote totals shall be kept under lock and seal, and if there is a retally of
9 votes, the officer entrusted with the tapes or discs shall submit his
10 affidavit stating that they are the tapes or discs, or both, used in the
11 election and have not been altered.

12 D. All materials submitted to the secretary of state shall be used by
13 the secretary of state or attorney general to preclude fraud or any unlawful
14 act under the laws of this title and title 19 and shall not be disclosed or
15 used for any other purpose.

16 E. Each program tape or disc or any other material submitted to the
17 secretary of state shall be returned to the county, city or town within six
18 months after the close of the election for which it was submitted except:

- 19 1. When a court ordered recount is pending.
- 20 2. When a restraining order is in effect.
- 21 3. When any other legal action is pending.

22 Sec. 3. Section 16-621, Arizona Revised Statutes, is amended to read:

23 16-621. Proceedings at the counting center

24 A. All proceedings at the counting center shall be under the direction
25 of the board of supervisors or other officer in charge of elections and shall
26 be conducted in accordance with the approved instructions and procedures
27 manual provided for in section 16-452 under the observation of
28 representatives of each political party and the public, but no persons except
29 those authorized for the purpose shall touch any ballot or ballot card or
30 return. All persons who are engaged in processing and counting of the
31 ballots shall be deputized in writing and take an oath that they will
32 faithfully perform their assigned duties. There shall be no preferential
33 counting of ballots for the purpose of projecting the outcome of the
34 election. If any ballot is damaged or defective so that it cannot properly
35 be counted by the automatic tabulating equipment, a true duplicate copy shall
36 be made of the damaged ballot in the presence of witnesses and substituted
37 for the damaged ballot. All duplicate ballots shall be clearly labeled
38 "duplicate" and shall bear a serial number which shall be recorded on the
39 damaged or defective ballot.

40 B. IF AN ELECTRONIC VOTING SYSTEM IS USED AND THE ELECTION INCLUDES AT
41 LEAST ONE CONTESTED RACE OR MEASURE, THE OFFICER IN CHARGE OF ELECTIONS SHALL
42 CONDUCT A MANUAL AUDIT OF BALLOTS FOR THE FEDERAL AND STATE OFFICES. THE
43 OFFICER IN CHARGE OF ELECTIONS SHALL SELECT TEN PER CENT OF THE PRECINCTS FOR
44 THE MANUAL AUDIT. THE PRECINCTS SHALL BE SELECTED RANDOMLY BY LOT WITHOUT
45 THE USE OF A COMPUTER. IN THE RANDOMLY SELECTED PRECINCTS, ONLY THOSE

1 CONTESTED RACES OR MEASURES WHERE THE DIFFERENCE OF VOTES IS LESS THAN TWENTY
2 PER CENT OF THE TOTAL BALLOTS CAST IN THE ELECTION WILL BE MANUALLY COUNTED,
3 EXCEPT THAT AT LEAST THREE RACES OR MEASURES MUST BE AUDITED.
4 NOTWITHSTANDING ANY OTHER LAW, THE OFFICER IN CHARGE OF ELECTIONS SHALL HAVE
5 ACCESS TO THE BALLOTS OF THE RANDOMLY SELECTED PRECINCTS FOR THE PURPOSES OF
6 THE MANUAL AUDIT. DURING THE MANUAL AUDIT, THE OFFICER IN CHARGE OF
7 ELECTIONS SHALL PROVIDE FOR SECURITY OF THE BALLOTS. FOR ANY MANUAL AUDIT,
8 THE COUNTY CHAIRMAN OF EACH POLITICAL PARTY SHALL DESIGNATE ELECTION BOARD
9 MEMBERS WHO SHALL PERFORM THE AUDIT UNDER THE SUPERVISION OF THE OFFICER IN
10 CHARGE OF ELECTIONS. THE ELECTION BOARD MEMBERS SHALL MANUALLY COUNT THE
11 VOTES CAST FOR EACH SELECTED RACE OR MEASURE IN TEAMS OF THREE MEMBERS. EACH
12 TEAM SHALL CONSIST OF TWO MEMBERS WHO ARE NOT OF THE SAME POLITICAL PARTY WHO
13 WILL COUNT THE VOTES CAST AND ONE MEMBER WHO SHALL BE THE JUDGE SHOULD A
14 DISCREPANCY ARISE IN THE MANUAL COUNT OF THE VOTES CAST. EACH RACE OR
15 MEASURE SHALL BE COUNTED TWICE BY A TEAM OF ELECTION BOARD MEMBERS AND THE
16 JUDGE FOR EACH COUNT SHALL NOT BE FROM THE SAME POLITICAL PARTY. EACH
17 COUNTING ELECTION BOARD MEMBER SHALL COUNT THE BALLOT BY DETERMINING HOW THE
18 VOTER INTENDED TO VOTE FROM THE MARKINGS MADE ON THE BALLOT. IF THE TWO
19 COUNTING MEMBERS DO NOT AGREE ON THE VOTE CAST, THE ELECTION BOARD MEMBER WHO
20 IS SELECTED TO BE THE JUDGE OF THE TEAM SHALL DETERMINE THE VOTE. EACH TEAM
21 SHALL TALLY THE NUMBER OF VOTE DECISIONS RENDERED BY THE JUDGE OF THE TEAM.
22 IF THE MANUAL AUDIT RESULTS IN A DISCREPANCY FOR ANY RACE OR MEASURE OF MORE
23 THAN FIVE VOTES, THE OFFICER IN CHARGE OF THE ELECTION SHALL INFORM THE
24 SECRETARY OF STATE OF THE DISCREPANCY AND THAT THE EQUIPMENT THAT WAS USED
25 MAY REQUIRE REVIEW FOR POSSIBLE REVOCATION OF CERTIFICATION. THE MANUAL
26 AUDIT SHALL OCCUR WITHIN THE FOLLOWING NUMBER OF DAYS:
27 1. FOR THE PRIMARY ELECTION IN 2006, THE MANUAL AUDIT SHALL OCCUR
28 WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ELECTION.
29 2. FOR THE GENERAL ELECTION IN 2006, THE MANUAL AUDIT SHALL OCCUR
30 WITHIN ONE HUNDRED TWENTY DAYS AFTER THE ELECTION.
31 3. FOR THE PRIMARY AND GENERAL ELECTIONS IN SUBSEQUENT YEARS, THE
32 MANUAL AUDIT SHALL OCCUR IMMEDIATELY AFTER THE ELECTION AND SHALL BE
33 COMPLETED WITHIN TEN DAYS AFTER EACH ELECTION.
34 ~~B-~~ C. If for any reason it becomes impracticable to count all or a
35 part of the ballots with tabulating equipment, the officer in charge of
36 elections may direct that they be counted manually, following as far as
37 practicable the provisions governing the counting of paper ballots.