

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 271

HOUSE BILL 2288

AN ACT

AMENDING SECTIONS 16-103, 16-542, 16-543 AND 16-543.02, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS AND ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Subject to the requirements of article IV, part 1, section
3 1, subsection (6) or subsection (14), Constitution of Arizona, section
4 16-103, Arizona Revised Statutes, is amended to read:

5 **16-103. Qualified person temporarily absent from state: persons**
6 **in the service of the United States**

7 A. A qualified person temporarily absent from the state may register
8 by filling out an affidavit of registration which shall be furnished upon
9 request of the registrant by the county recorder of the county in which the
10 registrant has residence pursuant to section 16-593. The registrant shall
11 execute the affidavit of registration and administer the oath himself and
12 shall return the affidavit to the county recorder.

13 B. The county recorder may accept a federal postcard application in
14 lieu of an affidavit of registration from any qualified person covered under
15 the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410;
16 42 United States Code section 1973).

17 C. Any other provisions of law to the contrary notwithstanding,
18 registration for any person covered under subsection B of this section may be
19 accomplished at any time prior to 7:00 p.m. of an election day. This
20 subsection applies only to persons temporarily absent from this state.

21 **D. A PERSON WHO WAS AN OVERSEAS VOTER AS DEFINED IN THE UNIFORMED AND**
22 **OVERSEAS CITIZENS ABSENTEE VOTING ACT OF 1986 (P.L. 99-410; 42 UNITED STATES**
23 **CODE SECTION 1973), AS AMENDED BY THE RONALD W. REAGAN NATIONAL DEFENSE**
24 **AUTHORIZATION ACT FOR FISCAL YEAR 2005, (P.L. 108-375), IMMEDIATELY BEFORE**
25 **BEING DOMICILED IN THIS STATE AND WHO HAS BEEN DISCHARGED OR SEPARATED FROM**
26 **THAT SERVICE OR EMPLOYMENT IN THE NINETY DAYS BEFORE ELECTION DAY MAY**
27 **REGISTER AND IS ELIGIBLE TO VOTE IN THAT ELECTION IF THE REGISTRATION IS**
28 **RECEIVED BY 5:00 P.M. ON THE FRIDAY BEFORE ELECTION DAY.**

29 **E. ANY UNITED STATES CITIZEN WHO HAS NEVER RESIDED IN THE UNITED**
30 **STATES AND WHOSE PARENT IS A UNITED STATES CITIZEN WHO IS REGISTERED TO VOTE**
31 **IN THIS STATE IS ELIGIBLE TO REGISTER TO VOTE AND MAY VOTE IN THIS STATE**
32 **USING A FEDERAL WRITE-IN EARLY BALLOT AS PRESCRIBED BY SECTION 16-543.02.**

33 Sec. 2. Section 16-542, Arizona Revised Statutes, is amended to read:

34 **16-542. Request for ballot**

35 A. Within ninety days next preceding the Saturday before any election
36 called pursuant to the laws of this state, an elector may make a verbal or
37 signed request to the county recorder, or other officer in charge of
38 elections for the applicable political subdivision of this state in whose
39 jurisdiction the elector is registered to vote, for an official early
40 ballot. In addition to name and address, the requesting elector shall
41 provide the date of birth and state or country of birth or other information
42 that if compared to the voter registration information on file would confirm
43 the identity of the elector. If the request indicates that the elector needs
44 a primary election ballot and a general election ballot, the county recorder
45 or other officer in charge of elections shall honor the request. For any
46 partisan primary election, if the elector is not registered as a member of a

1 political party that is entitled to continued representation on the ballot
2 pursuant to section 16-804, the elector shall designate the ballot of only
3 one of the political parties that is entitled to continued representation on
4 the ballot and the elector may receive and vote the ballot of only that one
5 political party. The county recorder may establish on-site early voting
6 locations at the recorder's office or any other locations in the county the
7 recorder deems necessary.

8 B. Notwithstanding subsection A of this section, a request for an
9 official early ballot from an absent uniformed services voter or overseas
10 voter as defined in the uniformed and overseas citizens absentee voting act
11 of 1986 (P.L. 99-410; 42 United States Code section 1973) or a voter whose
12 information is protected pursuant to section 16-153 that is received by the
13 county recorder or other officer in charge of elections more than ninety days
14 next preceding the Saturday before the election is valid. If requested by
15 the absent uniformed services or overseas voter, or a voter whose information
16 is protected pursuant to section 16-153, the county recorder or other officer
17 in charge of elections shall provide to the requesting voter early ballot
18 materials through the next two regularly scheduled general elections for
19 federal office immediately following receipt of the request.

20 C. The county recorder or other officer in charge of elections shall
21 mail postage prepaid to the address provided by the requesting elector, which
22 address shall be the elector's residence address or the location where the
23 elector is temporarily residing while absent from the precinct, the early
24 ballot and the envelope for its return within five days after receipt of the
25 official early ballots from the officer charged by law with the duty of
26 preparing ballots pursuant to section 16-545. If a statewide voter
27 registration database is not yet operational and if the requesting elector
28 registered to vote for the first time in this state after January 1, 2003 and
29 has not yet voted in this state or is reregistering after January 1, 2003
30 after moving from one county in this state to another county in this state
31 and is voting for the first time at the new registration address, the early
32 ballot materials shall include notice that the person shall submit a
33 photocopy of a current form of identification that bears a photograph of the
34 person and the name of the person or a photocopy of a current utility bill,
35 bank statement, paycheck, government issued check or other government
36 document that shows the name and registration address of the person and
37 notice that if the person does not submit photocopies of the required
38 documents, the person may only vote a provisional ballot.

39 D. Only the elector may be in possession of that elector's unvoted
40 early ballot. If a complete and correct request is made by the elector
41 within thirty days next preceding the Saturday before the election, ~~such THE~~
42 mailing must be made within forty-eight hours after receipt of the
43 request. Saturdays, Sundays and other legal holidays are excluded from the
44 computation of the forty-eight hour period prescribed by this subsection. If
45 a complete and correct request is made by an absent uniformed services voter
46 or an overseas voter ~~more than ninety days next preceding the Saturday~~ before

1 the election, the ~~mailing~~ REGULAR EARLY BALLOT shall be ~~made~~ TRANSMITTED BY
2 MAIL, FAX OR BY OTHER ELECTRONIC FORMAT APPROVED BY THE SECRETARY OF STATE
3 within twenty-four hours after the early ballots are delivered pursuant to
4 section 16-545, subsection B, excluding Sundays.

5 E. In order to be complete and correct and to receive an early ballot
6 by mail, an elector's request that an early ballot be mailed to the elector's
7 residence or temporary address must include all of the information prescribed
8 by subsection A of this section and must be received by the county recorder
9 or other officer in charge of elections no later than 5:00 p.m. on the
10 eleventh day preceding the election. An elector who appears personally no
11 later than 5:00 p.m. on the Friday preceding the election at an on-site early
12 voting location that is established by the county recorder or other officer
13 in charge of elections shall be given a ballot and permitted to vote at the
14 on-site location. If an elector's request to receive an early ballot is not
15 complete and correct but complies with all other requirements of this
16 section, the county recorder or other officer in charge of elections shall
17 attempt to notify the elector of the deficiency of the request.

18 F. Unless an elector specifies that the address to which an early
19 ballot is to be sent is a temporary address, the recorder may use the
20 information from an early ballot request form to update voter registration
21 records.

22 G. The county recorder or other officer in charge of early balloting
23 shall provide an alphabetized list of all voters in the precinct who have
24 requested and have been sent an early ballot to the election board of the
25 precinct in which the voter is registered not later than the day prior to the
26 election.

27 H. As a result of an emergency occurring between 5:00 p.m. on the
28 second Friday preceding the election and 5:00 p.m. on the Monday preceding
29 the election, qualified electors may request to vote early in the manner
30 prescribed by the county recorder of their respective county. For the
31 purposes of this subsection, "emergency" means any unforeseen circumstances
32 ~~which THAT~~ would prevent the elector from voting at the polls.

33 I. A candidate or political committee may distribute early ballot
34 request forms to voters. If the early ballot request forms include a printed
35 address for return to an addressee other than a political subdivision, the
36 addressee shall be the candidate or political committee that paid for the
37 printing and distribution of the request forms. All early ballot request
38 forms that are received by a candidate or political committee shall be
39 transmitted as soon as practicable to the political subdivision that will
40 conduct the election.

1 Sec. 3. Section 16-543, Arizona Revised Statutes, is amended to read:
2 16-543. Application for ballot: United States service:
3 emergency procedures

4 A. Any absent uniformed services voter or overseas voter as defined in
5 the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410;
6 42 United States Code section 1973), AS AMENDED BY THE RONALD W. REAGAN
7 NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005 (P.L. 108-375), may
8 request an early ballot with a federal postcard application that contains
9 both an early voter registration application and an early ballot
10 application. The secretary of state shall provide for a centralized system
11 for receiving federal postcard applications by way of the internet or
12 ~~facsimile~~ FAX and shall provide for transmitting appropriate ballot materials
13 in response to ~~facsimile~~ FAX, telephone and internet requests for federal
14 postcard applications. On receipt of such application, the county recorder
15 or other officer in charge of elections shall determine whether or not the
16 elector is registered. If the applicant is so registered, the recorder or
17 other officer in charge of elections shall forward to the applicant an
18 official early ballot. If the applicant is not registered, and the request
19 is for a ballot for use in a county election but the federal postcard
20 application is complete, the recorder shall forward an official early ballot
21 to the applicant. If the applicant is not registered to vote and the federal
22 postcard application is not used or complete, the recorder shall forward an
23 affidavit of registration as provided in section 16-103 and shall FORWARD at
24 the same time ~~forward~~ to the unregistered applicant an official early ballot
25 and affidavit.

26 B. The county recorder or other officer in charge of elections shall
27 transmit by fax OR BY OTHER ELECTRONIC FORMAT APPROVED BY THE SECRETARY OF
28 STATE early ballot request forms, unvoted ballots and ballot information to
29 eligible absent uniformed services voters and overseas voters. The county
30 recorder or other officer in charge of elections shall provide for receipt of
31 completed early ballot requests and voted early ballots by fax as prescribed
32 by the secretary of state in the instructions and procedures manual issued
33 pursuant to section 16-452.

34 C. THE SECRETARY OF STATE SHALL PROVIDE IN THE PROCEDURES MANUAL
35 ADOPTED PURSUANT TO SECTION 16-452 FOR EMERGENCY PROCEDURES REGARDING THE
36 EARLY BALLOTTING PROCESS FOR PERSONS WHO ARE SUBJECT TO THE UNIFORMED AND
37 OVERSEAS CITIZENS ABSENTEE VOTING ACT OF 1986 (P.L. 99-410; 42 UNITED STATES
38 CODE SECTION 1973), AS AMENDED BY THE RONALD W. REAGAN NATIONAL DEFENSE
39 AUTHORIZATION ACT FOR FISCAL YEAR 2005 (P.L. 108-375). THESE EMERGENCY
40 PROCEDURES MAY BE IMPLEMENTED ONLY ON THE OCCURRENCE OF A NATIONAL OR LOCAL
41 EMERGENCY THAT MAKES SUBSTANTIAL COMPLIANCE WITH THE UNIFORMED AND OVERSEAS
42 CITIZENS ABSENTEE VOTING ACT IMPRACTICABLE, INCLUDING OCCURRENCES OF NATURAL
43 DISASTERS OR ARMED CONFLICT OR MOBILIZATION OF THE NATIONAL GUARD OR MILITARY
44 RESERVE UNITS OF THIS STATE.

1 Sec. 4. Subject to the requirements of article IV, part 1, section 1,
2 subsection (6) or subsection (14), Constitution of Arizona, section
3 16-543.02, Arizona Revised Statutes, is amended to read:

4 16-543.02. Federal write-in early ballots: procedure:
5 registration form

6 A. An overseas voter as defined in the uniformed and overseas citizens
7 absentee voting act of 1986 (P.L. 99-410; 42 United States Code section
8 1973), AS AMENDED BY THE RONALD W. REAGAN NATIONAL DEFENSE AUTHORIZATION ACT
9 FOR FISCAL YEAR 2005 (P.L. 108-375), who is absent from the place of
10 residence in this state where ~~he~~ THE VOTER is otherwise qualified to vote may
11 use a federal write-in early ballot in a PRIMARY, general OR SPECIAL election
12 for the offices of presidential elector and United States senator and
13 representative in Congress if the voter applies for ~~a regular~~ AN early ballot
14 ~~at least thirty days before the general~~ BY 7:00 P.M. ON election DAY and does
15 not receive that early ballot.

16 B. A federal write-in early ballot of an overseas voter shall not be
17 counted if ~~any~~ EITHER of the following conditions are met:

18 ~~1. The ballot is submitted from any location in the United States.~~

19 ~~2. 1. The application of the overseas voter for ~~a regular~~ AN early~~
20 ballot is received by the county recorder or other officer in charge of
21 elections ~~less than thirty days before the general~~ AFTER 7:00 P.M. ON
22 election DAY.

23 ~~3. 2. A regular AN early ballot from the overseas voter is received~~
24 by the county recorder or other officer in charge of elections ~~not later than~~
25 ~~BY~~ 7:00 p.m. on election day.

26 C. An overseas voter who completes a federal write-in early ballot may
27 designate a candidate by writing in the name of the candidate or by writing
28 in the name of a political party, in which case the ballot shall be counted
29 for the candidate of that political party. In the case of the offices of
30 president and vice-president, a vote for a named candidate or in the name of
31 the political party shall be counted as a vote for that candidate's or
32 party's presidential electors. Any abbreviation, misspelling or other minor
33 variation in the form of the name of a candidate or political party shall be
34 disregarded in determining the validity of the ballot if the intention of the
35 voter can be ascertained.

36 D. FOR AN OVERSEAS VOTER WHO COMPLETES A FEDERAL WRITE-IN EARLY BALLOT
37 TRANSMISSION ENVELOPE WITH THE FEDERAL WRITE-IN EARLY BALLOT REQUEST, THE
38 TRANSMISSION ENVELOPE SHALL SERVE AS A VOTER REGISTRATION FORM AND THE VOTER
39 IS REGISTERED TO VOTE ON COMPLETION AND RECEIPT OF THE TRANSMISSION ENVELOPE
40 AND THE FEDERAL WRITE-IN EARLY BALLOT IF ALL OF THE FOLLOWING APPLY:

1 1. THE INFORMATION SUBMITTED ON THE TRANSMISSION ENVELOPE INCLUDES THE
2 INFORMATION PRESCRIBED IN SECTION 16-121.01.

3 2. THE VOTER IS OTHERWISE ELIGIBLE TO REGISTER AND VOTE IN THIS STATE.

4 3. THE REQUEST IS RECEIVED BY THE COUNTY RECORDER BY 7:00 P.M. ON
5 ELECTION DAY.

6 Sec. 5. Requirements for enactment: three-fourths vote

7 Pursuant to article IV, part 1, section 1, subsection (6) or subsection
8 (14), Constitution of Arizona, sections 16-103 and 16-543.02, Arizona Revised
9 Statutes, as amended by this act are effective only on the affirmative vote
10 of at least three-fourths of the members of each house of the legislature.

APPROVED BY THE GOVERNOR MAY 9, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2005.