

REFERENCE TITLE: **emergency voting procedures; board action**

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

SB 1090

Introduced by
Senator Ugenti-Rita

AN ACT

AMENDING SECTIONS 16-246, 16-411, 16-542 AND 16-549, 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. Section 16-246, Arizona Revised Statutes, is amended to
3 read:

4 **16-246. Early balloting; satellite locations; additional**
5 **procedures**

6 A. Within ninety-three days before the presidential preference
7 election and not later than 5:00 p.m. on the eleventh day preceding the
8 election, any elector who is eligible to vote in the presidential
9 preference election may make a verbal or signed, written request for an
10 official early ballot to the county recorder or other officer in charge of
11 elections for the county in which the elector is registered to vote. If
12 the request is verbal, the requesting elector shall provide the date of
13 birth and birthplace or other information that if compared to the voter
14 registration records for that elector would confirm the identity of the
15 elector.

16 B. Absent uniformed services voters or overseas voters who are
17 otherwise eligible to vote in the election may vote as prescribed by
18 sections 16-543 and 16-543.02.

19 C. The county recorder or other officer in charge of elections may
20 establish on-site early voting locations at the office of the county
21 recorder or at other locations in the county deemed necessary or
22 appropriate by the recorder. Early voting shall begin within the time
23 limits prescribed in section 16-542 unless otherwise prescribed by this
24 section.

25 D. The county recorder or other officer in charge of elections
26 shall send by nonforwardable mail that is marked with the statement
27 required by the postmaster to receive an address correction notification
28 any early ballots that are requested pursuant to subsections A and B of
29 this section and shall include a preaddressed envelope for the elector to
30 return the completed ballot.

31 E. The county recorder or other officer in charge of elections
32 shall provide to each election board an appropriate alphabetized list of
33 voters who have requested and have been sent an early ballot. Any person
34 who is on that list of voters and who was sent an early ballot shall not
35 vote at the polling place for that election precinct except as prescribed
36 by section 16-579, subsection B.

37 F. The county recorder or other officer in charge of elections may
38 provide for any of the following in the same manner prescribed by law for
39 other elections:

40 1. Special election boards.

41 2. Emergency balloting for persons who experience an emergency
42 after 5:00 p.m. on the Friday preceding the presidential preference
43 election and before 5:00 p.m. on the Monday immediately preceding the
44 presidential preference election. **BEFORE RECEIVING A BALLOT PURSUANT TO**
45 **THIS PARAGRAPH, A PERSON WHO EXPERIENCES AN EMERGENCY SHALL PROVIDE AND**

1 CONFIRM IDENTIFICATION AS PRESCRIBED IN SECTION 16-579 AND SHALL SIGN AN
2 AFFIDAVIT UNDER PENALTY OF PERJURY THAT DESCRIBES THE EMERGENCY, STATES
3 THAT THE OCCURRENCE WAS UNAVOIDABLE AND COULD NOT BE KNOWN IN ADVANCE AND
4 STATES THAT WITHOUT THE EMERGENCY PROVISIONS, THE PERSON WOULD OTHERWISE
5 BE UNABLE TO VOTE IN THE ELECTION IN ANY OTHER MANNER.

6 G. Sections 16-550, 16-551 and 16-552 govern the use of early
7 balloting for the presidential preference election.

8 Sec. 2. Section 16-411, Arizona Revised Statutes, is amended to
9 read:

10 16-411. Designation of election precincts and polling places;
11 voting centers; electioneering; wait times

12 A. The board of supervisors of each county, on or before December 1
13 of each year preceding the year of a general election, by an order, shall
14 establish a convenient number of election precincts in the county and
15 define the boundaries of the precincts. The election precinct boundaries
16 shall be so established as included within election districts prescribed
17 by law for elected officers of the state and its political subdivisions
18 including community college district precincts, except those elected
19 officers provided for in titles 30 and 48.

20 B. Not less than twenty days before a general or primary election,
21 and at least ten days before a special election, the board shall designate
22 one polling place within each precinct where the election shall be held,
23 except that:

24 1. On a specific finding of the board, included in the order or
25 resolution designating polling places pursuant to this subsection, that no
26 suitable polling place is available within a precinct, a polling place for
27 that precinct may be designated within an adjacent precinct.

28 2. Adjacent precincts may be combined if boundaries so established
29 are included in election districts prescribed by law for state elected
30 officials and political subdivisions including community college districts
31 but not including elected officials prescribed by titles 30 and 48. The
32 officer in charge of elections may also split a precinct for
33 administrative purposes. The polling places shall be listed in separate
34 sections of the order or resolution.

35 3. On a specific finding of the board that the number of persons
36 who are listed as permanent early voters pursuant to section 16-544 is
37 likely to substantially reduce the number of voters appearing at one or
38 more specific polling places at that election, adjacent precincts may be
39 consolidated by combining polling places and precinct boards for that
40 election. The board of supervisors shall ensure that a reasonable and
41 adequate number of polling places will be designated for that election.
42 Any consolidated polling places shall be listed in separate sections of
43 the order or resolution of the board.

1 4. On a specific resolution of the board, the board may authorize
2 the use of voting centers in place of or in addition to specifically
3 designated polling places. A voting center shall allow any voter in that
4 county to receive the appropriate ballot for that voter on election day
5 and lawfully cast the ballot. Voting centers may be established in
6 coordination and consultation with the county recorder, at other county
7 offices or at other locations in the county deemed appropriate.

8 5. ON A SPECIFIC RESOLUTION OF THE BOARD OF SUPERVISORS THAT IS
9 LIMITED TO A SPECIFIC ELECTION DATE AND THAT IS VOTED ON BY A RECORDED
10 VOTE, THE BOARD MAY AUTHORIZE THE USE OF EMERGENCY VOTING CENTERS FOR THAT
11 ELECTION ONLY. IF AUTHORIZING THE USE OF EMERGENCY VOTING CENTERS, THE
12 BOARD SHALL SPECIFY IN THE RESOLUTION THE LOCATION OF THE EMERGENCY VOTING
13 CENTERS AND THE HOURS OF OPERATION AND SHALL STATE THAT A QUALIFIED
14 ELECTOR VOTING AT AN EMERGENCY VOTING CENTER SHALL PROVIDE AND CONFIRM
15 IDENTIFICATION AS PRESCRIBED IN SECTION 16-579.

16 C. If the board fails to designate the place for holding the
17 election, or if it cannot be held at or about the place designated, the
18 justice of the peace in the precinct, two days before the election, by an
19 order, copies of which the justice of the peace shall immediately post in
20 three public places in the precinct, shall designate the place within the
21 precinct for holding the election. If there is no justice of the peace in
22 the precinct, or if the justice of the peace fails to do so, the election
23 board of the precinct shall designate and give notice of the place within
24 the precinct of holding the election. For any election in which there are
25 no candidates for elected office appearing on the ballot, the board may
26 consolidate polling places and precinct boards and may consolidate the
27 tabulation of results for that election if all of the following apply:

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

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

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

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

39 E. Except as provided in subsection F of this section, a public
40 school shall provide sufficient space for use as a polling place for any
41 city, county or state election when requested by the officer in charge of
42 elections.

43 F. The principal of the school may deny a request to provide space
44 for use as a polling place for any city, county or state election if,
45 within two weeks after a request has been made, the principal provides a

1 written statement indicating a reason the election cannot be held in the
2 school, including any of the following:

3 1. Space is not available at the school.

4 2. The safety or welfare of the children would be jeopardized.

5 G. The board shall make available to the public as a public record
6 a list of the polling places for all precincts in which the election is to
7 be held.

8 H. Except in the case of an emergency, any facility that is used as
9 a polling place on election day or that is used as an early voting site
10 during the period of early voting shall allow persons to electioneer and
11 engage in other political activity outside of the seventy-five foot limit
12 prescribed by section 16-515 in public areas and parking lots used by
13 voters. This subsection shall not be construed to permit the temporary or
14 permanent construction of structures in public areas and parking lots or
15 the blocking or other impairment of access to parking spaces for voters.
16 The county recorder or other officer in charge of elections shall post on
17 its website at least two weeks before election day a list of those polling
18 places in which emergency conditions prevent electioneering and shall
19 specify the reason the emergency designation was granted and the number of
20 attempts that were made to find a polling place before granting an
21 emergency designation. If the polling place is not on the website list of
22 polling places with emergency designations, electioneering and other
23 political activity shall be permitted outside of the seventy-five foot
24 limit. If an emergency arises after the county recorder or other officer
25 in charge of elections' initial website posting, the county recorder or
26 other officer in charge of elections shall update the website as soon as
27 is practicable to include any new polling places, shall highlight the
28 polling place location on the website and shall specify the reason the
29 emergency designation was granted and the number of attempts that were
30 made to find a polling place before granting an emergency designation.

31 I. For the purposes of this section, a county recorder or other
32 officer in charge of elections shall designate a polling place as an
33 emergency polling place and thus prohibit persons from electioneering and
34 engaging in other political activity outside of the seventy-five foot
35 limit prescribed by section 16-515 but inside the property of the facility
36 that is hosting the polling place if any of the following occurs:

37 1. An act of God renders a previously set polling place as
38 unusable.

39 2. A county recorder or other officer in charge of elections has
40 exhausted all options and there are no suitable facilities in a precinct
41 that are willing to be a polling place unless a facility can be given an
42 emergency designation.

43 J. The secretary of state shall provide through the instructions
44 and procedures manual adopted pursuant to section 16-452 the maximum
45 allowable wait time for any election that is subject to section 16-204 and

provide for a method to reduce voter wait time at the polls in the primary and general elections. The method shall consider at least all of the following for primary and general elections in each precinct:

1. The number of ballots voted in the prior primary and general elections.

2. The number of registered voters who voted early in the prior primary and general elections.

3. The number of registered voters and the number of registered voters who cast an early ballot for the current primary or general election.

4. The number of election board members and clerks and the number of rosters that will reduce voter wait time at the polls.

Sec. 3. Section 16-542, Arizona Revised Statutes, is amended to read:

16-542. Request for ballot: civil penalties: violation: classification

A. Within ninety-three days before any election called pursuant to the laws of this state, an elector may make a verbal or signed request to the county recorder, or other officer in charge of elections for the applicable political subdivision of this state in whose jurisdiction the elector is registered to vote, for an official early ballot. In addition to name and address, the requesting elector shall provide the date of birth and state or country of birth or other information that if compared to the voter registration information on file would confirm the identity of the elector. If the request indicates that the elector needs a primary election ballot and a general election ballot, the county recorder or other officer in charge of elections shall honor the request. For any partisan primary election, if the elector is not registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the elector shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the elector may receive and vote the ballot of only that one political party, which also shall include any nonpartisan offices and ballot questions, or the elector shall designate the ballot for nonpartisan offices and ballot questions only and the elector may receive and vote the ballot that contains only nonpartisan offices and ballot questions. The county recorder or other officer in charge of elections shall process any request for an early ballot for a municipal election pursuant to this subsection. The county recorder may establish on-site early voting locations at the recorder's office, which shall be open and available for use beginning the same day that a county begins to send out the early ballots. The county recorder may also establish any other early voting locations in the county the recorder deems necessary.

1 B. Notwithstanding subsection A of this section, a request for an
2 official early ballot from an absent uniformed services voter or overseas
3 voter as defined in the uniformed and overseas citizens absentee voting
4 act of 1986 (P.L. 99-410; 52 United States Code section 20310) or a voter
5 whose information is protected pursuant to section 16-153 that is received
6 by the county recorder or other officer in charge of elections more than
7 ninety-three days before the election is valid. If requested by the
8 absent uniformed services or overseas voter, or a voter whose information
9 is protected pursuant to section 16-153, the county recorder or other
10 officer in charge of elections shall provide to the requesting voter early
11 ballot materials through the next regularly scheduled general election for
12 federal office immediately following receipt of the request unless a
13 different period of time, which does not exceed the next two regularly
14 scheduled general elections for federal office, is designated by the
15 voter.

16 C. The county recorder or other officer in charge of elections
17 shall mail the early ballot and the envelope for its return postage
18 prepaid to the address provided by the requesting elector within five days
19 after receipt of the official early ballots from the officer charged by
20 law with the duty of preparing ballots pursuant to section 16-545, except
21 that early ballot distribution shall not begin more than twenty-seven days
22 before the election. If an early ballot request is received on or before
23 the thirty-first day before the election, the early ballot shall be
24 distributed not earlier than the twenty-seventh day before the election
25 and not later than the twenty-fourth day before the election.

26 D. Only the elector may be in possession of that elector's unvoted
27 early ballot. If a complete and correct request is made by the elector
28 within twenty-seven days before the election, the mailing must be made
29 within forty-eight hours after receipt of the request. Saturdays, Sundays
30 and other legal holidays are excluded from the computation of the
31 forty-eight hour period prescribed by this subsection. If a complete and
32 correct request is made by an absent uniformed services voter or an
33 overseas voter before the election, the regular early ballot shall be
34 transmitted by mail, by fax or by other electronic format approved by the
35 secretary of state within twenty-four hours after the early ballots are
36 delivered pursuant to section 16-545, subsection B, excluding Sundays.

37 E. In order to be complete and correct and to receive an early
38 ballot by mail, an elector's request that an early ballot be mailed to the
39 elector's residence or temporary address must include all of the
40 information prescribed by subsection A of this section and must be
41 received by the county recorder or other officer in charge of elections no
42 later than 5:00 p.m. on the eleventh day preceding the election. An
43 elector who appears personally no later than 5:00 p.m. on the Friday
44 preceding the election at an on-site early voting location that is
45 established by the county recorder or other officer in charge of elections

1 shall be given a ballot and permitted to vote at the on-site location. If
2 an elector's request to receive an early ballot is not complete and
3 correct but complies with all other requirements of this section, the
4 county recorder or other officer in charge of elections shall attempt to
5 notify the elector of the deficiency of the request.

6 F. Unless an elector specifies that the address to which an early
7 ballot is to be sent is a temporary address, the recorder may use the
8 information from an early ballot request form to update voter registration
9 records.

10 G. The county recorder or other officer in charge of early
11 balloting shall provide an alphabetized list of all voters in the precinct
12 who have requested and have been sent an early ballot to the election
13 board of the precinct in which the voter is registered not later than the
14 day before the election.

15 H. As a result of an emergency occurring between 5:00 p.m. on the
16 second Friday preceding the election and 5:00 p.m. on the Monday preceding
17 the election, qualified electors may request to vote early in the manner
18 prescribed by the ~~county recorder~~ BOARD OF SUPERVISORS of their respective
19 county. BEFORE VOTING EARLY PURSUANT TO THIS SUBSECTION, AN ELECTOR WHO
20 EXPERIENCES AN EMERGENCY SHALL PROVIDE AND CONFIRM IDENTIFICATION AS
21 PRESCRIBED IN SECTION 16-579 AND SHALL SIGN AN AFFIDAVIT UNDER PENALTY OF
22 PERJURY THAT DESCRIBES THE EMERGENCY, STATES THAT THE OCCURRENCE WAS
23 UNAVOIDABLE AND COULD NOT BE KNOWN IN ADVANCE AND STATES THAT WITHOUT THE
24 EMERGENCY PROVISIONS, THE ELECTOR WOULD OTHERWISE BE UNABLE TO VOTE IN THE
25 ELECTION IN ANY OTHER MANNER. For the purposes of this subsection,
26 "emergency" means any unforeseen circumstances that would prevent the
27 elector from voting at the polls.

28 I. A candidate, political committee or other organization may
29 distribute early ballot request forms to voters. If the early ballot
30 request forms include a printed address for return, the addressee shall be
31 the political subdivision that will conduct the election. Failure to use
32 the political subdivision as the return addressee is punishable by a civil
33 penalty of up to three times the cost of the production and distribution
34 of the request.

35 J. All original and completed early ballot request forms that are
36 received by a candidate, political committee or other organization shall
37 be submitted within six business days after receipt by a candidate,
38 political committee or other organization or eleven days before the
39 election day, whichever is earlier, to the political subdivision that will
40 conduct the election. Any person, political committee or other
41 organization that fails to submit a completed early ballot request form
42 within the prescribed time is subject to a civil penalty of up to
43 ~~twenty-five dollars~~ \$25 per day for each completed form withheld from
44 submittal. Any person who knowingly fails to submit a completed early
45 ballot request form before the submission deadline for the election

1 immediately following the completion of the form is guilty of a class 6
2 felony.

3 Sec. 4. Section 16-549, Arizona Revised Statutes, is amended to
4 read:

5 16-549. ~~Special election boards; voting procedure for ill~~
6 electors or electors with disabilities; expenses

7 A. The county recorder or other officer in charge of elections, for
8 the purpose of making it possible for qualified electors who are ill or
9 have a disability to vote, may appoint such number of special election
10 boards as needed. In a partisan election, each such board shall consist
11 of two members, one from each of the two political parties ~~which~~ THAT cast
12 the highest number of votes in the state in the last preceding general
13 election. The county chairman of each such party shall furnish, within
14 sixty days ~~prior to~~ BEFORE the election day, the county recorder or other
15 officer in charge of elections with a list of names of qualified electors
16 within the chairman's political party, and such additional lists as may be
17 required, from which the county recorder or other officer in charge of
18 elections shall appoint members to such special election boards. The
19 county recorder or other officer in charge of elections may refuse for
20 cause to appoint or may for cause remove a member of this board. A person
21 who is a candidate for an office other than precinct committeeman is not
22 eligible to serve on the special election board for that election.

23 B. Members of special election boards appointed under ~~the~~
24 ~~provisions of~~ this section shall be reimbursed for travel expenses in the
25 manner provided by law and shall also receive such compensation as the
26 board of supervisors or the governing body prescribes, all of which shall
27 be paid by the county or other political subdivision.

28 C. In lieu of the mailed early ballot procedure, any qualified
29 elector who is confined as the result of a continuing illness or physical
30 disability and is, therefore, not able to go to the polls on the day of
31 the next election and who does not wish to vote by the mailed early ballot
32 procedure, may make a verbal or a signed written request to the county
33 recorder or other officer in charge of elections to have a ballot
34 personally delivered to the elector by the special election board at the
35 elector's place of confinement within the county or other political
36 subdivision. The ballot shall be delivered to the elector in person by a
37 special election board as provided in this section. Such requests must be
38 made by 5:00 p.m. on the second Friday before the election.

39 D. Qualified electors who become ill or become a person with a
40 disability after the second Friday before the election may nevertheless
41 request personal ballot delivery pursuant to this section, and the county
42 recorder or other officer in charge of elections shall when possible honor
43 such requests up to and including the last day before the election.
44 Qualified electors who are admitted to a hospital after 5:00 p.m. on the
45 second Friday preceding the election and before 5:00 p.m. on election day

1 may request the county recorder or other officer in charge of elections to
2 provide a special election board with a ballot at the elector's place of
3 confinement. If the county recorder or other officer in charge of
4 elections is able to accommodate the request, the voted ballot of the
5 elector shall be sealed in an envelope and shall be processed as a
6 provisional ballot pursuant to section 16-584. BEFORE RECEIVING A BALLOT
7 PURSUANT TO THIS SUBSECTION, A QUALIFIED ELECTOR SHALL PROVIDE AND CONFIRM
8 IDENTIFICATION AS PRESCRIBED IN SECTION 16-579 AND SHALL SIGN AN AFFIDAVIT
9 UNDER PENALTY OF PERJURY THAT DESCRIBES THE ELECTOR'S CIRCUMSTANCES,
10 STATES THAT THE CIRCUMSTANCES WERE UNAVOIDABLE AND COULD NOT BE KNOWN IN
11 ADVANCE AND STATES THAT WITHOUT THE USE OF THE SPECIAL ELECTION BOARD, THE
12 ELECTOR WOULD OTHERWISE BE UNABLE TO VOTE IN THE ELECTION IN ANY OTHER
13 MANNER.

14 E. The manner and procedure of voting shall be as provided in
15 section 16-548, except that the marked ballot in the sealed envelope shall
16 be handed by the elector to the special election board and shall be
17 delivered by the board to the county recorder or other officer in charge
18 of elections.