

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

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

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

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

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

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

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

15 16-542. Request for ballot; civil penalties; violation;  
16 classification

17 A. Within ninety-three days before any election called pursuant to  
18 the laws of this state, an elector may make a verbal or signed request to  
19 the county recorder, or other officer in charge of elections for the  
20 applicable political subdivision of this state in whose jurisdiction the  
21 elector is registered to vote, for an official early ballot. In addition  
22 to name and address, the requesting elector shall provide the date of  
23 birth and state or country of birth or other information that if compared  
24 to the voter registration information on file would confirm the identity  
25 of the elector. If the request indicates that the elector needs a primary  
26 election ballot and a general election ballot, the county recorder or  
27 other officer in charge of elections shall honor the request. For any  
28 partisan primary election, if the elector is not registered as a member of  
29 a political party that is entitled to continued representation on the  
30 ballot pursuant to section 16-804, the elector shall designate the ballot  
31 of only one of the political parties that is entitled to continued  
32 representation on the ballot and the elector may receive and vote the  
33 ballot of only that one political party, which also shall include any  
34 nonpartisan offices and ballot questions, or the elector shall designate  
35 the ballot for nonpartisan offices and ballot questions only and the  
36 elector may receive and vote the ballot that contains only nonpartisan  
37 offices and ballot questions. The county recorder or other officer in  
38 charge of elections shall process any request for an early ballot for a  
39 municipal election pursuant to this subsection. The county recorder may  
40 establish on-site early voting locations at the recorder's office, which  
41 shall be open and available for use beginning the same day that a county  
42 begins to send out the early ballots. The county recorder may also  
43 establish any other early voting locations in the county the recorder  
44 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.