

REFERENCE TITLE: election procedures manual; rulemaking; GRC

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1014

Introduced by
Senator Ugenti-Rita

AN ACT

AMENDING SECTIONS 16-452, 41-1056.01 AND 41-1057, 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 16-452, Arizona Revised Statutes, is amended to
3 read:

4 16-452. Rules; instructions and procedures manual; approval
5 of manual; field check and review of systems;
6 violation; classification

7 A. After consultation with each county board of supervisors or
8 other officer in charge of elections, the secretary of state shall
9 prescribe rules to achieve and maintain the maximum degree of correctness,
10 impartiality, uniformity and efficiency on the procedures for early voting
11 and voting, and of producing, distributing, collecting, counting,
12 tabulating and storing ballots. The secretary of state shall also adopt
13 rules regarding fax transmittal of unvoted ballots, ballot requests, voted
14 ballots and other election materials to and from absent uniformed and
15 overseas citizens and shall adopt rules regarding internet receipt of
16 requests for federal postcard applications prescribed by section 16-543.

17 B. The rules shall be prescribed in an official instructions and
18 procedures manual to be issued not later than December 31 of each
19 odd-numbered year immediately preceding the general election. Before its
20 issuance, the manual shall be approved by the ~~governor and the attorney~~
21 ~~general~~ GOVERNOR'S REGULATORY REVIEW COUNCIL. The secretary of state
22 shall submit the manual to the ~~governor and the attorney general~~
23 GOVERNOR'S REGULATORY REVIEW COUNCIL FOR REVIEW PURSUANT TO SECTION
24 41-1052 not later than October 1 of the year before each general election.

25 C. A person who violates any rule adopted pursuant to this section
26 is guilty of a class 2 misdemeanor.

27 D. The secretary of state shall provide personnel who are experts
28 in electronic voting systems and procedures and in electronic voting
29 system security to field check and review electronic voting systems and
30 recommend needed statutory and procedural changes.

31 Sec. 2. Section 41-1056.01, Arizona Revised Statutes, is amended to
32 read:

33 41-1056.01. Impact statements; appeals

34 A. Within two years after a rule is finalized, a person who is or
35 may be affected by the rule may file a written petition with an agency
36 objecting to all or part of a rule on any of the following grounds:

37 1. The actual economic, small business or consumer impact
38 significantly exceeded the impact estimated in the economic, small
39 business and consumer impact statement submitted during the making of the
40 rule.

41 2. The actual economic, small business or consumer impact was not
42 estimated in the economic, small business and consumer impact statement
43 submitted during the making of the rule and that actual impact imposes a
44 significant burden on persons subject to the rule.

1 3. The agency did not select the alternative that imposes the least
2 burden and costs to persons regulated by the rule, including paperwork and
3 other compliance costs, necessary to achieve the underlying regulatory
4 objective.

5 B. The burden of proof is on the petitioner to show that any of the
6 provisions set forth in subsection A of this section are met.

7 C. Within thirty days after receiving the copy of the petition, the
8 agency shall reevaluate the rule and its economic impacts and publish
9 notice of the petition in the register. For at least thirty days after
10 publication of the notice the agency shall afford persons the opportunity
11 to submit in writing statements, arguments, data and views on the rule and
12 its impacts. Within thirty days after the close of comment, the agency
13 shall publish a written summary of comments received, the agency's
14 response to those comments, and the final decision of the agency on
15 whether to initiate a rule making or to amend or repeal the rule. The
16 agency shall initiate any such rule making within forty-five days after
17 publication of its final decision.

18 D. Any person who is or may be affected by the agency's final
19 decision on whether to initiate a rule making pursuant to subsection C of
20 this section may appeal that decision to the council within thirty days
21 after publication of the agency's final decision.

22 E. The council shall place on its agenda the appeal if at least
23 three council members make such a request of the council chairman within
24 two weeks after the filing of the appeal with the council.

25 F. If the appeal is placed on the council's agenda, the council
26 chairman shall provide a copy of the appeal and written notice to the
27 agency that the council will consider the appeal. The agency shall
28 provide the council with a copy of the written summary described in
29 subsection C of this section.

30 G. The council shall require an agency to promptly initiate a rule
31 making or to amend or repeal the rule or the rule package, as prescribed
32 by section 41-1024, subsection E, objected to in the petition if the
33 council finds that any of the provisions set forth in subsection A of this
34 section are met.

35 H. This section ~~shall~~ DOES not apply to:

36 1. A rule for which there is a final judgment of a court of
37 competent jurisdiction based on the grounds of whether the contents of the
38 economic, small business and consumer impact statement were insufficient
39 or inaccurate.

40 2. THE SECRETARY OF STATE'S INSTRUCTIONS AND PROCEDURES MANUAL
41 ISSUED PURSUANT TO SECTION 16-452.

1 Sec. 3. Section 41-1057, Arizona Revised Statutes, is amended to
2 read:

3 41-1057. Exemptions

4 A. In addition to the exemptions stated in section 41-1005, this
5 article does not apply to:

6 1. An agency ~~which~~ THAT is a unit of state government headed by a
7 single elected official, EXCEPT THAT THE SECRETARY OF STATE SHALL SUBMIT
8 FOR REVIEW UNDER SECTION 41-1052 THE INSTRUCTIONS AND PROCEDURES MANUAL
9 ISSUED PURSUANT TO SECTION 16-452.

10 2. The corporation commission, which shall adopt substantially
11 similar rule review procedures, including the preparation of an economic
12 impact statement and a statement of the effect of the rule on small
13 business.

14 3. The industrial commission of Arizona when incorporating by
15 reference the federal occupational safety and health standards as
16 published in 29 Code of Federal Regulations parts 1904, 1910, 1926 and
17 1928.

18 4. The Arizona state lottery if making rules that relate only to
19 the design, operation or prize structure of a lottery game.

20 B. An agency exempt under subsection A of this section may elect to
21 follow the requirements of this article instead of section 41-1044 for a
22 particular ~~rule making~~ RULEMAKING. The agency shall include with a final
23 ~~rule making~~ RULEMAKING filed with council a statement that the agency has
24 elected to follow the requirements of this article.