State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2720

Introduced by
Representative Bolick

AN ACT

AMENDING SECTIONS 16-602, 16-621, 16-650, 16-663, 16-672, 16-673, 16-676
AND 16-677, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 16-602, Arizona Revised Statutes, is amended to read:

16-602. Removal of ballots from ballot boxes; disposition of ballots folded together or excessive ballots; designated margin; hand counts; vote count verification committee

A. For any primary, special or general election in which the votes are cast AS FOLLOWS:

1. On an electronic voting machine or tabulator, the election judge shall compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast and that information shall be noted in a written report prepared and submitted to the officer in charge of elections along with other tally reports.

2. WITHOUT REGARD TO THE SYSTEM OR METHOD USED TO PRODUCE OR TABULATE BALLOTS, THE COUNTY RECORDER OR OFFICER IN CHARGE OF ELECTIONS SHALL MAINTAIN A COUNT OF THE NUMBER OF PHYSICAL BALLOTS PRINTED AND THE NUMBER OF BALLOTS OTHERWISE GENERATED IN THE FOLLOWING CATEGORIES, INCLUDING THE AMOUNT OF ANY OVERLAP IN THOSE CATEGORIES, AND SHALL POST THAT INFORMATION ON THE COUNTY’S WEBSITE WITHIN ONE DAY AFTER ELECTION DAY:

   (a) EARLY BALLOTS.
   (b) REGULAR BALLOTS.
   (c) PROVISIONAL BALLOTS.
   (d) FEDERAL-ONLY BALLOTS.
   (e) BALLOTS GENERATED IN AN ELECTRONIC FORM, ITEMIZED BY THE CATEGORIES PRESCRIBED IN THIS PARAGRAPH.

B. SUBSECTION A OF THIS SECTION DOES NOT AUTHORIZE A METHOD FOR PRINTING OR OTHERWISE GENERATING BALLOTS THAT IS NOT OTHERWISE PROVIDED FOR BY LAW.

B. C. For each countywide primary, special, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at one or more secure facilities. The hand count shall be conducted as prescribed by this section and in accordance with hand count procedures established by the secretary of state in the official instructions and procedures manual adopted pursuant to section 16-452. The hand count is not subject to the live video requirements of section 16-621, subsection D, but the party representatives who are observing the hand count may bring their own video cameras in order to record the hand count. The recording shall not interfere with the conduct of the hand count and the officer in charge of the election may prohibit from recording or remove from the facility persons who are taking actions to disrupt the count. The sole act of recording the hand count does not constitute sufficient grounds for the officer in charge of the election to prohibit observers from recording or
to remove them from the facility. The hand count shall be conducted in the following order:

1. At least two percent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection F of this section.

2. The races to be counted on the ballots from the precincts that were selected pursuant to paragraph 1 of this subsection for each primary, special and general election shall include up to five contested races. After the county recorder or other officer in charge of elections separates the primary ballots by political party, the races to be counted shall be determined by selecting by lot without the use of a computer from those ballots as follows:
   (a) For a general election, one statewide ballot measure, unless there are no measures on the ballot.
   (b) One contested statewide race for statewide office.
   (c) One contested race for federal office, either United States senate or United States house of representatives. If the United States house of representatives race is selected, the names of the candidates may vary among the sampled precincts.
   (d) One contested race for state legislative office, either state house of representatives or state senate. In either case, the names of the candidates may vary among the sampled precincts.
   (e) If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) of this section and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested federal, statewide or legislative races or ballot measures are available for selection.
(f) If there are no contested races as prescribed by this paragraph, a hand count shall not be conducted for that precinct for that election.

3. For the presidential preference election, select by lot two percent of the polling places designated and used pursuant to section 16-248 and perform the hand count of those ballots.

4. For the purposes of this section, a write-in candidacy in a race does not constitute a contested race.

5. In elections in which there are candidates for president, the presidential race shall be added to the four categories of hand counted races.

6. Each county chairman of a political party that is entitled to continued representation on the state ballot or the chairman's designee shall select by lot the individual races to be hand counted pursuant to this section.

7. The county chairman of each political party shall designate and provide the number of election board members as designated by the county officer in charge of elections who shall perform the hand count under the supervision of the county officer in charge of elections. For each precinct that is to be audited, the county chairmen shall designate at least two board workers who are registered members of any or no political party to assist with the audit. Any qualified elector from this state may be a board worker without regard to party designation. The county election officer shall provide for compensation for those board workers, not to include travel, meal or lodging expenses. If there are less than two persons for each audited precinct available to participate on behalf of each recognized political party, the recorder or officer in charge of elections, with the approval of at least two county party chairpersons in the county in which the shortfall occurs, shall substitute additional individual electors who are provided by any political party from anywhere in the state without regard to party designation to conduct the hand count. A county party chairman shall approve only those substitute electors who are provided by the county chairman's political party. The political parties shall provide to the recorder or officer in charge of elections in writing the names of those persons intending to participate in the hand count at the audited precincts not later than 5:00 p.m. on the Tuesday preceding the election. If the total number of board workers provided by all parties is less than four times the number of precincts to be audited, the recorder or officer in charge of elections shall notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding the election. The hand count shall not proceed unless the political parties provide the recorder or officer in charge of elections, in writing, a sufficient number of persons by 5:00 p.m. on the Thursday preceding the election and a sufficient number of persons, pursuant to this paragraph, arrive to perform the hand count. The recorder or officer in charge of elections may prohibit persons from participating in the hand count if
they are taking actions to disrupt the count or are unable to perform the
duties as assigned. For the hand count to proceed, not more than
seventy-five percent of the persons performing the hand count shall be
from the same political party.

8. If a political party is not represented by a designated
chairperson within a county, the state chairperson for that political
party, or a person designated by the state chairperson, may perform the
actions required by the county chairperson as specified in this section.

D. If the randomly selected races result in a difference in any
race that is less than the designated margin when compared to the
electronic tabulation of those same ballots, the results of the electronic
tagulation constitute the official count for that race. If the randomly
selected races result in a difference in any race that is equal to or
greater than the designated margin when compared to the electronic
tagulation of those same ballots, a second hand count of those same
ballots and races shall be performed. If the second hand count results in
a difference in any race that is less than the designated margin when
compared to the electronic tabulation for those same ballots, the
electronic tabulation constitutes the official count for that race. If
the second hand count results in a difference in any race that is equal to
or greater than the designated margin when compared to the electronic
tagulation for those same ballots, the hand count shall be expanded to
include a total of twice the original number of randomly selected
precincts. Those additional precincts shall be selected by lot without
the use of a computer.

E. In any expanded count of randomly selected precincts, if the
randomly selected precinct hand counts result in a difference in any race
that is equal to or greater than the designated margin when compared to
the electronic tabulation of those same ballots, the final hand count
shall be extended to include the entire jurisdiction for that race. If
the jurisdictional boundary for that race would include any portion of
more than one county, the final hand count shall not be extended into the
precincts of that race that are outside of the county that is conducting
the expanded hand count. If the expanded hand count results in a
difference in that race that is less than the designated margin when
compared to the electronic tabulation of those same ballots, the
electronic tabulation constitutes the official count for that race.

F. If a final hand count is performed for an entire
jurisdiction for a race, the final hand count shall be repeated for that
race until a hand count for that race for the entire jurisdiction results
in a count that is identical to one other hand count for that race for the
entire jurisdiction and that hand count constitutes the official count for
that race.

G. After the electronic tabulation of early ballots and at one
or more times selected by the chairman of the political parties entitled
to continued representation on the ballot or the chairman's designee, the
chairmen or the chairmen's designees shall randomly select one or more batches of early ballots that have been tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered by the county recorder or officer in charge of elections along with their unofficial tally reports for a postelection manual audit. The chairmen or the chairmen's designees shall randomly select from those sequestered early ballots a number equal to one percent of the total number of early ballots cast or five thousand early ballots, whichever is less. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection C of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to one percent of the total early ballots cast or an additional five thousand ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin when compared to any of the earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference in that race that is less than the designated margin. If at any point in the manual audit of early ballots the difference between any manual count of early ballots is less than the designated margin when compared to the electronic tabulation of those ballots, the electronic tabulation shall be included in the canvass and no further manual audit of the early ballots shall be conducted.

G. H. During any hand count of early ballots, the county officer in charge of elections and election board workers shall attempt to determine the intent of the voter in casting the ballot.

H. I. Notwithstanding any other law, the county officer in charge of elections shall retain custody of the ballots for purposes of performing any required hand counts, and the officer shall provide for security for those ballots. SHALL CREATE DIGITIZED IMAGES OF THOSE BALLOTS AND SHALL KEEP THE DIGITIZED IMAGES AND THE PHYSICAL BALLOTS AS PUBLIC RECORDS.

I. J. The hand counts prescribed by this section shall begin within twenty-four hours after the closing of the polls and shall be completed before the canvassing of the election for that county. The results of those hand counts shall be provided to the secretary of state,
who shall make those results publicly available on the secretary of state’s website.

K. For any county in which a hand count has been expanded to all precincts in the jurisdiction, the secretary of state shall make available the escrowed source code for that county to the superior court. The superior court shall appoint a special master to review the computer software. The special master shall have expertise in software engineering, shall not be affiliated with an election software vendor nor with a candidate, shall sign and be bound by a nondisclosure agreement regarding the source code itself and shall issue a public report to the court and to the secretary of state regarding the special master’s findings on the reasons for the discrepancies. The secretary of state shall consider the reports for purposes of reviewing the certification of that equipment and software for use in this state.

K. L. The vote count verification committee is established in the office of the secretary of state and all of the following apply:

1. At least thirty days before the 2006 primary election, The secretary of state shall appoint seven persons to the committee, not more than three of whom are members of the same political party.

2. Members of the committee shall have expertise in any two or more of the areas of advanced mathematics, statistics, random selection methods, systems operations or voting systems.

3. A person is not eligible to be a committee member if that person has been affiliated with or received any income in the preceding five years from any person or entity that provides election equipment or services in this state.

4. The vote count verification committee shall meet and establish one or more designated margins to be used in reviewing the hand counting of votes as required pursuant to this section. The committee shall review and consider revising the designated margins every two years for use in the applicable elections. The committee shall provide the designated margins to the secretary of state at least ten days before the primary election and at least ten days before the general election, and the secretary of state shall make that information publicly available on the secretary of state’s website.

5. Members of the vote count verification committee are not eligible to receive compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. The committee is a public body and its meetings are subject to title 38, chapter 3, article 3.1 and its reports and records are subject to title 39, chapter 1.

Sec. 2. Section 16-621, Arizona Revised Statutes, is amended to read:

16-621. Proceedings at the counting center; observers; video
A. All proceedings at the counting center shall be under the direction of the board of supervisors or other officer in charge of elections and shall be conducted in accordance with the approved
instructions and procedures manual issued pursuant to section 16-452 under
the observation of representatives of each political party and the public.
The proceedings at the counting center may also be observed by up to three
additional people representing a candidate for nonpartisan office, or
representing a political committee in support of or in opposition to a
ballot measure, proposition or question, AND AT LEAST TEN PERSONS FROM THE
GENERAL PUBLIC WHO ARE REGISTERED VOTERS IN THE COUNTY. A draw by lot
shall determine which three groups or candidates shall have representatives participate in the observation at the counting center AND WHICH MEMBERS OF THE GENERAL PUBLIC SHALL PARTICIPATE IN THE OBSERVATION.
Persons representing a candidate for nonpartisan office or persons or
groups representing a political committee in support of or in opposition
to a ballot measure, proposition or question, AND MEMBERS OF THE PUBLIC
who are interested in participating in the observation shall notify the
officer in charge of elections of their desire to be included in the draw
not later than seventeen days before the election. After the deadline to
receive submissions from the interested persons or groups, but prior to
fourteen days before the election, the county officer in charge of elections shall draw by lot, from the list of those that expressed interest, three persons or groups AND TEN MEMBERS OF THE GENERAL PUBLIC
and those selected shall be notified and allowed to observe the
proceedings at the counting center. If a group is selected the group may
alter who represents that group for different days of observation but on
any given observation day a selected group shall not send more than one
observer. A group may rotate an observer throughout the day. ANY MEMBER
OF THE GENERAL PUBLIC WHO WAS SELECTED AS AN OBSERVER MAY OBSERVE AT ANY
TIME THROUGHOUT THE DAY AT THE COUNTING CENTER. ALL OBSERVERS SHALL BE
ALLOWED TO OBSERVE EACH ESSENTIAL PART OF THE PROCEEDINGS AT THE COUNTING CENTER. Only those persons who are authorized for the purpose OF PROCESSING AND COUNTING BALLOTS AND ELECTION SUPPLIES shall touch any ballot or ballot card or return. All persons who are engaged in processing and counting of the ballots shall be qualified electors, shall be deputized in writing and shall take an oath that they will faithfully perform their assigned duties. There shall be no preferential counting of ballots for the purpose of projecting the outcome of the election. If any ballot, including any ballot received from early voting, is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, a true duplicate copy shall be made of the damaged or defective ballot in the presence of witnesses and substituted for the damaged or defective ballot. All duplicate ballots created pursuant to this subsection shall be clearly labeled "duplicate" and shall bear a serial number that shall be recorded on the damaged or defective ballot. THE IMAGES OF ALL DUPLICATED BALLOTS SHALL BE POSTED TO THE COUNTY'S WEBSITE WITHIN TWENTY-FOUR HOURS AFTER DUPLICATION ALONG WITH THE DETERMINATION BY THE BOARD AS TO THAT VOTER'S INTENT FOR EACH CONTEST ADJUDICATED.
B. If the counting center automatic tabulating equipment includes an electronic vote adjudication feature that has been certified for use as prescribed by section 16-442 and the board of supervisors or officer in charge of elections authorizes the use of this feature at the counting center, all of the following apply:
   1. The electronic vote adjudication feature shall be included in the tabulation system logic and accuracy testing prescribed by section 16-449.
   2. The board of supervisors or officer in charge of elections shall appoint an electronic vote adjudication board that consists of two judges who are overseen by an inspector, with the two judges equally divided between the two largest political parties as prescribed by section 16-531, subsection D to adjudicate and submit for tabulation a ballot that is read by the tabulation machine as blank in order to determine if voter intent is clear on a portion or all of the ballot, or any portion of any ballot as prescribed by section 16-610 or 16-611, or to tally write-in choices as prescribed by section 16-612. THE IMAGES OF ALL DUPLICATED BALLOTS SHALL BE POSTED TO THE COUNTY'S WEBSITE WITHIN TWENTY-FOUR HOURS AFTER DUPLICATION ALONG WITH THE DETERMINATION BY THE ELECTRONIC VOTE ADJUDICATION BOARD AS TO THAT VOTER'S INTENT FOR EACH CONTEST ADJUDICATED.
   3. The electronic vote adjudication process used by the electronic vote adjudication board shall provide for:
      (a) A method to track and account for the original ballot and the digital duplicate of the ballot created by the electronic vote adjudication feature that includes a serial number on the digital image that can be used to track electronic vote adjudication board actions.
      (b) The creation and retention of comprehensive logs of all digital duplication and adjudication actions performed by an electronic vote adjudication board.
      (c) The retention of the original ballot and the digital duplicate of the ballot.

C. If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the officer in charge of elections may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

D. For any statewide, county or legislative election, the county recorder or officer in charge of elections shall provide for a live video recording of the custody of all ballots while the ballots are present in a tabulation room in the counting center. The live video recording shall include date and time indicators, SHALL CLEARLY DISPLAY THE BALLOTS BEING COUNTED AND THE ELECTRONIC SCREENS BEING USED BY THE ELECTRONIC VOTE ADJUDICATION BOARD and shall be linked to the secretary of state's website. The secretary of state shall post links to the video coverage for viewing by the public. The county recorder or officer in charge of elections shall record the video coverage of the ballots at the counting center and shall retain those recordings as a public record for at least
as long as the challenge period for the general election. If the live
video feed is disrupted or disabled, the recorder or officer in charge of
elections is not liable for the disruption but shall attempt to reinstate
video coverage as soon as is practicable. Any disruption in video
coverage shall not affect or prevent the continued tabulation of ballots
but shall result in the members of the Board of Supervisors and the County
Recorder being deemed ineligible for reelection and barred from holding
any public office in this state for ten years after the expiration of the
term of office in which the disruption in video coverage occurred. This
subsection is contingent on legislative appropriation.

E. The county recorder or other officer in charge of elections
shall maintain records that record the chain of custody for all election
equipment and ballots during early voting through the completion of
provisional voting tabulation. Ballots and electronic data that contain
representations of the voters’ choices may be removed from a ballot box,
tabulator or electronic or computer system only if in the custody of at
least one person from each of two or more political parties.

Sec. 3. Section 16-650, Arizona Revised Statutes, is amended to
read:

16-650. Declaration of election to office; delivery of
certificate of election; legislative action

A. The secretary of state shall declare elected the person
receiving the highest number of votes cast for each office for which the
nominees filed nominating petitions and papers with the secretary of state
pursuant to section 16-311, subsection B and shall, unless enjoined
from so doing by an order of court, deliver to each such person, upon
compliance with the provisions imposed by law upon candidates for
office as conditions precedent to the issuance of the certificates, a
certificate of election, signed by the secretary of state and
authenticated with the great seal of the state.

B. Notwithstanding subsection A of this section, the Legislature
retains its legislative authority regarding the office of presidential
elector and by majority vote at any time before the presidential
inauguration may revoke the Secretary of state’s issuance or certification
of a presidential elector’s certificate of election. The Legislature may
take action pursuant to this subsection without regard to whether the
Legislature is in regular or special session or has held committee or
other hearings on the matter.

Sec. 4. Section 16-663, Arizona Revised Statutes, is amended to
read:

16-663. Recount of votes; method

A. The superior court to which the facts requiring a recount are
certified shall forthwith promptly make and enter an order requiring a
recount of the votes cast for such office, measure or proposal. The
recount shall be conducted in accordance with the laws pertaining to
contests of elections.
B. When the court orders a COUNT-ORDERED recount of votes which were cast and tabulated on electronic voting equipment, such recount shall be pursuant to section 16-664. On completion of the recount, and for legislative, statewide and federal candidate races only, the county chairmen of the political parties entitled to continued representation on the ballot or the chairman's designee shall select at random without the use of a computer five per cent of the precincts for the recounted race for a hand count, and if the results of that hand count when compared to the electronic tabulation of that same race are less than the designated margins calculated pursuant to section 16-602, the recount is complete and the electronic tabulation is the official result. If the hand count results in a difference that is equal to or greater than the designated margin for that race, the procedure established in section 16-602, subsections C, D, E, and F applies AND G APPLIES.

Sec. 5. Section 16-672, Arizona Revised Statutes, is amended to read:

16-672. Contest of state election; grounds; venue
A. Any elector of the state may contest the election of any person declared elected to a state office, INCLUDING THE OFFICE OF PRESIDENTIAL ELECTOR, or declared nominated to a state office at a primary election, or the declared result of an initiated or referred measure, or a proposal to amend the Constitution of Arizona, or other question or proposal submitted to vote of the people, upon any of the following grounds:
1. For misconduct on the part of election boards or any members thereof in any of the counties of the state, or on the part of any officer making or participating in a canvass for a state election.
2. That the person whose right to the office is contested was not at the time of the election eligible to HOLD the office.
3. That the person whose right is contested, or any person acting for him, has given to an elector, inspector, judge or clerk of election a bribe or reward, or has offered such a bribe or reward for the purpose of procuring his election, or has committed any other offense against the elective franchise.
4. On account of illegal votes.
5. That by reason of erroneous count of votes the person declared elected or the initiative or referred measure, or proposal to amend the constitution, or other question or proposal submitted, which has been declared carried, did not in fact receive the highest number of votes for the office or a sufficient number of votes to carry the measure, amendment, question or proposal.
B. The contest may be brought in the superior court of the county in which the person contesting resides or in the superior court of Maricopa county.
C. In a contest of the election of a person declared elected to a state office, INCLUDING PRESIDENTIAL ELECTOR, or of an initiated or referred measure, constitutional amendment, or other question or proposal, which has been declared carried, the attorney general may intervene, and upon demand, the place of trial of the contest shall be changed to Maricopa county, if commenced in another county.

Sec. 6. Section 16-673, Arizona Revised Statutes, is amended to read:

16-673. Statement of contest; verification; filing; timeliness

A. The elector contesting a state election shall, within five days after completion of the canvass of the election and declaration of the result by the secretary of state or by the governor, file in the court in which the contest is commenced a statement in writing setting forth:

1. The name and residence of the party contesting the election, and that he is an elector of the state and county in which he resides.
2. The name of the person whose right to the office is contested, or the title of the measure, or constitutional amendment, or other proposition as it appeared on the official ballot.
3. The office the election to which is contested.
4. The particular grounds of the contest.
B. The statement shall be verified by the affidavit of the contestor that he believes the matters and things therein contained are true.

C. AN ELECTION CONTEST FILED WITHIN THE TIME PRESCRIBED BY SUBSECTION A OF THIS SECTION IS DEEMED TIMELY AND MAY NOT BE BARRED UNDER THE DOCTRINE OF LACHES.

Sec. 7. Section 16-676, Arizona Revised Statutes, is amended to read:

16-676. Time for hearing contest; continuance; findings of the court; judgment; jury trial

A. In any contest brought under the provisions of section 16-672 or 16-674, upon the filing of the answer, or if no answer is filed, upon the expiration of the time specified in the summons, the court shall set a time for the hearing of the contest, not later than ten days after the date on which the statement of contest was filed, which may be continued for not to exceed five days for good cause shown.

B. The court shall continue in session to hear and determine all issues arising in contested elections. After hearing the proofs and allegations of the parties, and within five days after the submission thereof, the court shall file its findings and immediately thereafter shall pronounce judgment, either confirming or annulling and setting aside the election.
C. If in an election contest it appears that a person other than
the contestee has the highest number of legal votes, the court shall
declare that person elected and that the certificate of election of the
person whose office is contested is of no further legal force or effect.

D. ANY PARTY TO AN ELECTION CONTEST MAY REQUEST A JURY TRIAL, WHICH
SHALL BE GRANTED AND TRIED AS OTHER JURY TRIALS IN A CIVIL ACTION, EXCEPT
THAT THE STATUTORY PROVISIONS FOR ELECTION CONTESTS PREVAIL OVER ANY
CONFLICTING RULES OF PROCEDURE FOR JURY TRIALS. IN AN ELECTION CONTEST
JURY TRIAL, A COURT MAY NOT GRANT A MOTION TO DISMISS OR A MOTION FOR
SUMMARY JUDGMENT THAT WOULD RESULT IN DISMISSAL UNTIL AFTER THE JURY HAS
ISSUED ITS VERDICT.

Sec. 8. Section 16-677, Arizona Revised Statutes, is amended to
read:

16-677. Inspection of ballots before trial; petition; bond;
appointment of inspectors

A. After the statement of contest has been filed and the action is
at issue, either party may have the ballots AND TABULATION EQUIPMENT
inspected before preparing for trial.

B. The party applying for the inspection of ballots OR TABULATION
EQUIPMENT shall file with the clerk of the court a verified petition
stating that it cannot properly prepare for trial without an
inspection of the ballots AND TABULATION EQUIPMENT and shall file with the
petition a bond, approved by the clerk, with two sureties, in the
principal amount of three hundred dollars $300, conditioned that it will pay the costs and expenses of the inspection if it fails to maintain the contest. Thereupon the court shall appoint three
persons, one selected by each of the parties and one by the court, by whom
the inspection shall be made. If either party fails to name a person to
act in making the inspection, the court shall make the appointment.

C. The inspection of the ballots AND TABULATION EQUIPMENT shall be
made in the presence of the legal custodian of the ballots AND TABULATION
EQUIPMENT, and the compensation of the inspectors shall be fixed by the
court and taxed as costs against the losing party.