

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
JUDICIARY COMMITTEE

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DATE: February 9, 2021

SUBJECT: Strike everything amendment to S.B. 1408, relating to legislative subpoenas

Purpose

Prohibits, retroactive to January 1, 2020, specified county election material from being deemed privileged, confidential or protected from disclosure pursuant to a subpoena.

Background

Statute authorizes a subpoena to be issued by the presiding officer of either house of the Legislature or the chairman of any committee before whom the attendance of a witness is desired. The subpoena is sufficient if it states whether the proceeding is before the Senate, House of Representatives or a legislative committee, is addressed to the witness, requires the attendance of the witness at a certain time and place and is signed by either presiding officer or a committee chairman. The subpoena may be served and returned in the same manner as civil process ([A.R.S. § 41-1151](#)).

Statute provides that testimony or evidence produced pursuant to a legislative subpoena may not be admitted in evidence or used in any manner in any criminal prosecution against a natural person sworn and examined before either house of the Legislature or any committee of either house, with exceptions, if it constitutes either the compelled testimony or the private papers of such person that would be privileged evidence under the U.S. Constitution or Arizona Constitution and the person claimed the privilege and a majority of the committee, after consultation with the attorney general, votes to order that person to testify or produce such papers ([A.R.S. § 41-1152](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Declares that the Legislature's plenary authority to conduct an investigation on any matter may not be infringed by any other law.
2. Prohibits county election equipment, systems and records and other information that is under control of county personnel, from being deemed privileged information, confidential information or other information protected from disclosure, and states they are subject to subpoena and must be produced.
3. Allows a court to compel a person to produce the records that are subject to the subpoena.
4. Makes technical changes.
5. Becomes effective on the general effective date, retroactive to January 1, 2020.