

REFERENCE TITLE: early ballots; provisionals; precinct tallies

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1343

Introduced by
Senator Rogers

AN ACT

AMENDING SECTIONS 16-552 AND 16-621, 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 16-552, Arizona Revised Statutes, is amended to
3 read:

4 16-552. Early ballots; processing; challenges

5 A. In a jurisdiction that uses optical scan ballots, the officer in
6 charge of elections may use the procedure prescribed by this section or
7 may request approval from the secretary of state for a different method
8 for processing early ballots. The request shall be made in writing at
9 least ninety days before the election for which the procedure is intended
10 to be used. After the election official has confirmed with the secretary
11 of state that all election equipment passes the logic and accuracy test,
12 the election official may begin to count early ballots. No early ballot
13 results may be released except as prescribed by section 16-551.

14 B. The early election board shall check the voter's affidavit on
15 the envelope containing the early ballot. If it is found to be
16 sufficient, the vote shall be allowed. If the affidavit is insufficient,
17 the vote shall not be allowed.

18 C. The county chairman of each political party represented on the
19 ballot, by written appointment addressed to the early election board, may
20 designate party representatives and alternates to act as early ballot
21 challengers for the party. No party may have more than the number of such
22 representatives or alternates that were mutually agreed on by each
23 political party to be present at one time. If such agreement cannot be
24 reached, the number of representatives shall be limited to one for each
25 political party.

26 D. An early ballot may be challenged on any grounds set forth in
27 section 16-591. All challenges shall be made in writing with a brief
28 statement of the grounds before the early ballot is placed in the ballot
29 box. A record of all challenges and resulting proceedings shall be kept
30 in substantially the same manner as provided in section 16-594. If an
31 early ballot is challenged, it shall be set aside and retained in the
32 possession of the early election board or other officer in charge of early
33 ballot processing until a time that the early election board sets for
34 determination of the challenge, subject to the procedure in subsection E
35 of this section, at which time the early election board shall hear the
36 grounds for the challenge and shall decide what disposition shall be made
37 of the early ballot by majority vote. If the early ballot is not allowed,
38 it shall be handled pursuant to subsection G of this section.

39 E. Within twenty-four hours of receipt of a challenge, the early
40 election board or other officer in charge of early ballot processing shall
41 mail, by first class mail, a notice of the challenge including a copy of
42 the written challenge, and also including the time and place at which the
43 voter may appear to defend the challenge, to the voter at the mailing
44 address shown on the request for an early ballot or, if none was provided,
45 to the mailing address shown on the registration rolls. Notice shall also

1 be mailed to the challenger at the address listed on the written challenge
 2 and provided to the county chairman of each political party represented on
 3 the ballot. The board shall meet to determine the challenge at the time
 4 specified by the notice but, in any event, not earlier than ninety-six
 5 hours after the notice is mailed, or forty-eight hours if the notifying
 6 party chooses to deliver the notice by overnight or hand delivery, and not
 7 later than 5:00 p.m. on the Monday following the election. The board
 8 shall provide the voter with an informal opportunity to make, or to
 9 submit, brief statements regarding the challenge. The board may decline
 10 to permit comments, either in person or in writing, by anyone other than
 11 the voter, the challenger and the party representatives. The burden of
 12 proof is on the challenger to show why the voter should not be permitted
 13 to vote. The fact that the voter fails to appear shall not be deemed to
 14 be an admission of the validity of the challenge. The early election
 15 board or other officer in charge of early ballot processing is not
 16 required to provide the notices described in this subsection if the
 17 written challenge fails to set forth at least one of the grounds listed in
 18 section 16-591 as a basis for the challenge. In that event, the challenge
 19 will be summarily rejected at the meeting of the board. Except for
 20 election contests pursuant to section 16-672, the board's decision is
 21 final and may not be appealed.

22 F. If the vote is allowed, the board shall open the envelope
 23 containing the ballot in such a manner that the affidavit thereon is not
 24 destroyed, take out the ballot without unfolding it or permitting it to be
 25 opened or examined and show by the records of the election that the
 26 elector has voted.

27 G. If the vote is not allowed, the affidavit envelope containing
 28 the early ballot shall not be opened and the board shall mark across the
 29 face of such envelope the grounds for rejection. The affidavit envelope
 30 and its contents shall then be deposited with the opened affidavit
 31 envelopes and shall be preserved with official returns. If the voter does
 32 not enter an appearance, the board shall send the voter a notice stating
 33 whether the early ballot was disallowed and, if disallowed, providing the
 34 grounds for the determination. The notice shall be mailed by first class
 35 mail to the voter's mailing address as shown on the registration rolls
 36 within three days after the board's determination.

37 H. Party representatives and alternates may be appointed as
 38 provided in subsection C of this section to be present and to challenge
 39 the verification of questioned ballots pursuant to section 16-584 on any
 40 grounds ~~permitted~~ ALLOWED by this section. Questioned ballots that are
 41 challenged shall be presented to the early election board for decision
 42 under the provisions of this section.

43 I. ALL EARLY BALLOTS SHALL BE SEPARATED BY PRECINCT, TABULATED BY
 44 PRECINCT AND INCLUDED AS A SEPARATE CATEGORY IN THE VOTE TOTALS FOR THE
 45 VOTER'S PRECINCT, WITHOUT REGARD TO WHETHER THE EARLY BALLOT WAS VOTED OR

1 RECEIVED AT AN EARLY VOTING CENTER, ELECTION DAY VOTING CENTER, EMERGENCY
2 VOTING CENTER, POLLING PLACE OR OFFICE OF THE COUNTY RECORDER. AFTER
3 TABULATION, EARLY BALLOTS SHALL REMAIN SEPARATED BY PRECINCT.

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

6 16-621. Proceedings at the counting center

7 A. All proceedings at the counting center shall be under the
8 direction of the board of supervisors or other officer in charge of
9 elections and shall be conducted in accordance with the approved
10 instructions and procedures manual issued pursuant to section 16-452 under
11 the observation of representatives of each political party and the public.
12 The proceedings at the counting center may also be observed by up to three
13 additional people representing a candidate for nonpartisan office, or
14 representing a political committee in support of or in opposition to a
15 ballot measure, proposition or question. A draw by lot shall determine
16 which three groups or candidates shall have representatives participate in
17 the observation at the counting center. Persons representing a candidate
18 for nonpartisan office or persons or groups representing a political
19 committee in support of or in opposition to a ballot measure, proposition
20 or question, who are interested in participating in the observation, shall
21 notify the officer in charge of elections of their desire to be included
22 in the draw not later than seventeen days before the election. After the
23 deadline to receive submissions from the interested persons or groups, but
24 prior to fourteen days before the election, the county officer in charge
25 of elections shall draw by lot, from the list of those that expressed
26 interest, three persons or groups and those selected shall be notified and
27 allowed to observe the proceedings at the counting center. If a group is
28 selected the group may alter who represents that group for different days
29 of observation but on any given observation day a selected group shall not
30 send more than one observer. A group may rotate an observer throughout
31 the day. Only those persons who are authorized for the purpose shall
32 touch any ballot or ballot card or return. All persons who are engaged in
33 processing and counting of the ballots shall be qualified electors, shall
34 be deputized in writing and shall take an oath that they will faithfully
35 perform their assigned duties. There shall be no preferential counting of
36 ballots for the purpose of projecting the outcome of the election. If any
37 ballot, including any ballot received from early voting, is damaged or
38 defective so that it cannot properly be counted by the automatic
39 tabulating equipment, a true duplicate copy ~~shall be made~~ of the damaged
40 or defective ballot SHALL BE MADE in the presence of witnesses and
41 substituted for the damaged or defective ballot. All duplicate ballots
42 created pursuant to this subsection shall be clearly labeled "duplicate"
43 and shall bear a serial number that shall be recorded on the damaged or
44 defective ballot.

1 B. If the counting center automatic tabulating equipment includes
2 an electronic vote adjudication feature that has been certified for use as
3 prescribed by section 16-442 and the board of supervisors or officer in
4 charge of elections authorizes the use of this feature at the counting
5 center, all of the following apply:

6 1. The electronic vote adjudication feature shall be included in
7 the tabulation system logic and accuracy testing prescribed by section
8 16-449.

9 2. The board of supervisors or officer in charge of elections shall
10 appoint an electronic vote adjudication board that consists of two judges
11 who are overseen by an inspector, with the two judges equally divided
12 between the two largest political parties as prescribed by section 16-531,
13 subsection D to adjudicate and submit for tabulation a ballot that is read
14 by the tabulation machine as blank in order to determine if voter intent
15 is clear on a portion or all of the ballot, or any portion of any ballot
16 as prescribed by section 16-610 or 16-611, or to tally write-in choices as
17 prescribed by section 16-612.

18 3. The electronic vote adjudication process used by the electronic
19 vote adjudication board shall provide for:

20 (a) A method to track and account for the original ballot and the
21 digital duplicate of the ballot created by the electronic vote
22 adjudication feature that includes a serial number on the digital image
23 that can be used to track electronic vote adjudication board actions.

24 (b) The creation and retention of comprehensive logs of all digital
25 duplication and adjudication actions performed by an electronic vote
26 adjudication board.

27 (c) The retention of the original ballot and the digital duplicate
28 of the ballot.

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

33 D. For any statewide, county or legislative election, the county
34 recorder or officer in charge of elections shall provide for a live video
35 recording of the custody of all ballots while the ballots are present in a
36 tabulation room in the counting center. The live video recording shall
37 include date and time indicators and shall be linked to the secretary of
38 state's website. The secretary of state shall post links to the video
39 coverage for viewing by the public. The county recorder or officer in
40 charge of elections shall record the video coverage of the ballots at the
41 counting center and shall retain those recordings as a public record for
42 at least as long as the challenge period for the general election. If the
43 live video feed is disrupted or disabled, the recorder or officer in
44 charge of elections is not liable for the disruption but shall attempt to
45 reinstate video coverage as soon as is practicable. Any disruption in

1 video coverage shall not affect or prevent the continued tabulation of
2 ballots. This subsection is contingent on legislative appropriation.

3 E. The county recorder or other officer in charge of elections
4 shall maintain records that record the chain of custody for all election
5 equipment and ballots during early voting through the completion of
6 provisional voting tabulation.

7 F. ALL EARLY BALLOTS, PROVISIONAL BALLOTS AND CONDITIONAL
8 PROVISIONAL BALLOTS SHALL BE SEPARATED BY PRECINCT AND CATEGORY OF BALLOT,
9 TABULATED BY PRECINCT AND CATEGORY OF BALLOT AND INCLUDED AS SEPARATE LINE
10 ITEMS BY CATEGORY OF BALLOT IN THE VOTE TOTALS FOR THE VOTER'S PRECINCT,
11 WITHOUT REGARD TO WHETHER THE BALLOT WAS VOTED OR RECEIVED AT AN EARLY
12 VOTING CENTER, ELECTION DAY VOTING CENTER, EMERGENCY VOTING CENTER,
13 POLLING PLACE OR OFFICE OF THE COUNTY RECORDER. AFTER TABULATION, EARLY
14 BALLOTS, PROVISIONAL BALLOTS AND CONDITIONAL PROVISIONAL BALLOTS SHALL
15 REMAIN SEPARATED BY CATEGORY OF BALLOT AND PRECINCT.