

ARIZONA STATE SENATE

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TO: MEMBERS OF THE SENATE
GOVERNMENT COMMITTEE

DATE: March 17, 2022

SUBJECT: Strike everything amendment to H.B. 2289, relating to elections; identification; revisions; tabulation; mail-in

Purpose

Prohibits the use of electronic voting and tabulating devices, unless required to comply with accessibility requirements. Requires paper ballots to be used in all elections and counted by hand and returns to be made within 24 hours of polls closing. Restricts eligibility to vote an absentee ballot to only an elector that meets one of four specified criteria and repeals the Active Early Voting List (AEVL). Repeals authorization and requirements related to voting centers, emergency voting centers, on-site early voting, the duplication of ballots and electronic vote adjudication.

Background

All state, county, city or town elections, agricultural improvement district elections and primary elections must be conducted using voting or marking devices and vote tabulating devices authorized by the Secretary of State (SOS) ([A.R.S. § 16-443](#)). On completion of the certification process, the SOS must require voting systems used by certain jurisdictions to provide persons who are blind or visually impaired with access to voting that is equivalent to that provided to persons who are not blind or visually impaired ([A.R.S. § 16-442.01](#)).

Any election called pursuant to Arizona law must provide for any qualified elector to vote by early ballot ([A.R.S. § 16-541](#)). The county recorder or other elections officer may begin distributing early ballots 27 days before the election and must mail early ballots within 48 hours of a request, if the request is made within 22 days of the election. Any voter may request to be included on the AEVL to receive an early ballot for any election for which the county voter registration roll is used to prepare the election register ([A.R.S. § 16-544](#)).

A county board of supervisors (county BOS) must establish a convenient number of election precincts in the county and define the boundaries of the precincts. A county BOS, on a specific resolution, may authorize the use of voting centers in place of, or in addition to, specifically designated polling places. A voting center must allow any voter in the county to receive the appropriate ballot for the voter on election day after presenting identification. A county BOS may also establish emergency voting centers for voters that experience an emergency between 5:00 p.m. on the Friday preceding an election and 5:00 p.m. on the Monday preceding an election ([A.R.S. § 16-411](#)). A county recorder may establish on-site early voting locations at the county recorder's office, which must be open and available for use beginning the same day that the county begins to mail out early ballots. A county recorder may also establish any other necessary early voting locations in the county ([A.R.S. § 16-542](#)).

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

Provisions

Ballots

1. Requires, for state, county, city or town elections, only paper ballots to be used and tabulated by hand.
2. Requires, for primary and general elections, a county BOS to use ballot paper that includes a hologram, an identifiable sequence marking or another similar system for preventing fraud and that allows a voter to receive a uniquely marked or numbered ballot.
3. Requires ballots to be organized and remain segregated by precinct, both before and after counting.

Voting and Absentee Voting

4. Requires all primary and general elections to be conducted in strict adherence to the:
 - a) prohibition on a voter that has not presented valid state-issued identification from receiving or voting a ballot;
 - b) requirement that, except for authorized absentee ballots, all voting occur only on election day and all ballots be cast in person by a voter at the voter's election precinct polling place; and
 - c) requirement that all ballots be counted by hand and canvassed and that returns be made within 24 hours of the polls closing.
5. Renames *early voting* as *absentee voting*.
6. Repeals the AEVL and requirements relating to voters who requested to receive an early ballot by mail for any election.
7. Restricts eligibility to vote an absentee ballot to only an elector who:
 - a) expects to be outside of the state at the time of the election;
 - b) is physically unable to go to the polls because the voter is hospitalized or in a nursing home;
 - c) has a visual impairment; or
 - d) is an absent uniformed services voter or oversees voter as defined in the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA voter) or a spouse or household member of the UOCAVA voter.
8. Requires a voter requesting an absentee ballot to specify the applicable authorized reason for which the voter is requesting to vote absentee.
9. Requires the absentee ballot affidavit form to include a statement that the voter meets one of the eligible criteria for receiving an early ballot.
10. Removes the requirement that an absentee ballot request by a voter whose voter registration information is protected pursuant to a court order be deemed valid if the request is received more than 93 days before an election.

11. Removes the requirement that a county recorder or officer in charge of elections, upon receipt of an early ballot request from a UOCAVA voter or a voter whose voter registration information is protected pursuant to a court order, provide early ballot materials to the voter through the next regularly scheduled general election for federal office, unless a different period of time is designated by the voter.
12. Repeals the permissive authority for a county recorder to:
 - a) use information from an early ballot request form to update a voter's registration record; or
 - b) allow a voter who experienced an emergency between 5:00 p.m. on the Friday before an election and 5:00 p.m. on the Monday before an election and who is voting in a manner prescribed by a county BOS to update the voter's registration information.
13. Repeals the permissive authority for a candidate, political committee or other organization to distribute early ballot request forms to voters.

Precincts and Polling Locations

14. Prohibits a county BOS from:
 - a) authorizing the use of voting centers in place of or in addition to polling places; and
 - b) establishing an election precinct that contains more than 1,500 registered voters on the date the precinct boundaries are established.
15. Repeals the authority of a county recorder to establish on-site early voting locations and repeals requirements related to on-site early voting locations.
16. Prohibits a county BOS from changing a polling place unless the voters in the precinct are notified by mail at least two years in advance.
17. Repeals the permissive authority for a county BOS to:
 - a) establish emergency voting centers for voters who experience an emergency between 5:00 p.m. on the Friday before an election and 5:00 p.m. on the Monday before an election;
 - b) consolidate adjacent precincts if it is determined that the number of early voters is likely to substantially reduce the number of voters appearing at a polling place; and
 - c) consolidate polling places, precinct boards and the tabulation of results for any election in which there are no candidates for elected office appearing on the ballot and certain requirements are met.
18. Repeals the authorization for and requirements related to:
 - a) the duplication of damaged or defective ballots at a counting center; and
 - b) electronic vote adjudication.
19. Repeals requirements related to:
 - a) voting centers;
 - b) emergency voting centers;
 - c) the use of electronic voting equipment in an automatic recount; and
 - d) ballots intended for use in an optical scanning system.

20. Prohibits a county BOS, county recorder and officer in charge of elections from requiring a voter, board worker or other person to:
 - a) wear a facial mask at a polling place or other voting or tabulating location; or
 - b) be vaccinated against or tested for a virus as a condition of entering a polling place or other voting or tabulating location.
21. Asserts that a county recorder is responsible only for providing an adequate number and type of ballots, pens, tables and other equipment as necessary for the various precinct polling places as determined by the number of registered voters in the precincts and requires a county BOS to perform and supervise all other election related duties.
22. Repeals the exemption from requirements related to the designation of polling places by a county BOS for a special district mail ballot election.
23. Repeals the ability of a school principal to deny a request to provide space for use as a polling place for any election.
24. Requires a county BOS, whenever possible, to use schools and governmental offices as polling places.
25. Requires school district governing board members, principals and managers of governmental offices, on request, to allow sites to be used as polling places.
26. Restricts when a county recorder or other officer in charge of elections may designate a polling place as an emergency non-electioneering polling place to only when an act of God renders a previously set polling place as unusable.
27. Redefines *counting center* to mean polling places and one or more locations selected by a county BOS for the counting of absentee ballots.
28. Requires the 75-foot electioneering limit notice used at polling places to state that any political party, rather than only political parties represented on the ballot, are allowed to remain inside the 75-foot electioneering limit.
29. Repeals the requirement that the 75-foot electioneering limit at polling places apply to a minor voting in a simulated election at a polling place.

Voting Machines and Vote Tabulation

30. Prohibits the use of electronic voting and electronic or other tabulating devices in all state, county, city or town elections, agricultural improvement district elections and primary and general elections, unless otherwise required to comply with statutory requirements for accessible voting machines.
31. Prohibits the SOS from approving the use of electronic voting machines and electronic tabulating machines, unless required to comply with accessibility requirements for voters who are blind or have a visual impairment.

32. Requires, rather than allows, the SOS to revoke the certification of any voting system or device if the person or firm:
 - a) installs, uses or allows the use of voting systems and devices that are not certified for use or approved for experimental use; or
 - b) includes hardware, firmware or software in a version that is not certified for use or approved for experimental use.
33. Repeals the authority for a city, town or agricultural improvement district to adopt any electronic voting system or vote tabulating device approved by the SOS for use in city, town or agricultural improvement district elections.
34. Repeals the authority for the SOS or the governing body of a city or town to provide for the experimental use of a voting system or device.
35. Repeals the authority of the SOS to approve an upgrade or modification to a certified voting system or device for emergency use.
36. Redefines *electronic voting system* to apply only to absentee votes recorded on a paper ballot and counted and tabulated by equipment at a county absentee ballot counting center.
37. Applies, to only electronic voting systems used to comply with requirements for accessible voting, statutory requirements for the specifications of an electronic voting system.
38. Repeals requirements related to the:
 - a) filing of computer election programs with the SOS;
 - b) filing of a revised automatic tabulating program and report with the SOS if an error is ascertained and corrected during voting equipment logic and accuracy testing; and
 - c) means of financing tabulating equipment by a county BOS.
39. Removes the requirement that logic and accuracy testing of electronic ballot tabulating systems occur within seven days before use for early balloting.
40. Repeals the ability of vote tabulating devices to be:
 - a) located at any place approved by a county BOS or the governing body of political subdivision using the device; and
 - b) jointly owned, borrowed, leased or used by two or more counties, cities or other political subdivisions.
41. Requires an election judge, for any primary, special or general election, to compare the number of votes cast as indicated from paper ballots, rather than as indicated on a voting machine or tabulator, with the number of votes cast as indicated on the poll list.

Elections Procedures Manual

42. Repeals the requirement that the SOS, after consultation with each county BOS or other officer in charge of elections, prescribe rules related to elections in an Elections Procedures Manual.
43. Repeals requirements related to compliance with the Elections Procedures Manual.

44. Removes the requirement that the SOS, in the Elections Procedures Manual, provide:
 - a) the maximum allowable wait time for any consolidated election; and
 - b) for a method to reduce voter wait time at the polls in a primary and general election.

Hand Count Audit

45. Repeals requirements related to post-election hand count audits conducted on a percentage of ballots cast at precincts and early ballots.
46. Repeals the Vote Count Verification Committee.

Miscellaneous

47. Directs Legislative Council staff to prepare conforming legislation for consideration in the Fifty-Sixth Legislature, First Regular Session.
48. Makes technical and conforming changes.
49. Becomes effective on the general effective date.