

REFERENCE TITLE: **registrations; counting procedures; observers;
verification**

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2710

Introduced by
Representative Kavanagh

AN ACT

**AMENDING SECTIONS 16-168, 16-544, 16-550, 16-590, 16-602 AND 16-621,
ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-168, Arizona Revised Statutes, is amended to
3 read:

4 16-168. Precinct registers; date of preparation; contents;
5 copies; reports; statewide database; violation;
6 classification

7 A. By the tenth day preceding the primary and general elections the
8 county recorder shall prepare from the original registration forms or from
9 electronic media at least four lists that are printed or typed on paper,
10 or at least two electronic media poll lists, or any combination of both,
11 of all qualified electors in each precinct in the county, and the lists
12 shall be the official precinct registers.

13 B. The official precinct registers for use at the polling place
14 shall contain at least the names in full, party preference, date of
15 registration and residence address of each qualified elector in the
16 respective precincts. The names shall be in alphabetical order and, in a
17 column to the left of the names, shall be numbered consecutively beginning
18 with number 1 in each precinct register.

19 C. For the purposes of transmitting voter registration information
20 as prescribed by this subsection, electronic media shall be the principal
21 media. A county or state chairman who is eligible to receive copies of
22 precinct lists as prescribed by this subsection may request that the
23 recorder provide a paper copy of the precinct lists. In addition to
24 preparing the official precinct lists, the county recorder shall provide a
25 means for electronically reproducing the precinct lists. Unless otherwise
26 agreed, the county recorder shall deliver one electronic media copy of
27 each precinct list in the county without charge and on the same day within
28 eight days after the close of registration for the primary and general
29 elections to the county chairman and one electronic media copy to the
30 state chairman of each party that has at least four candidates other than
31 presidential electors appearing on the ballot in that county at the
32 current election. The secretary of state shall establish a single format
33 that prescribes the manner and template in which all county recorders
34 provide this data to the secretary of state to ensure that the submissions
35 are uniform from all counties in this state, that all submissions are
36 identical in format, including the level of detail for voting history, and
37 that information may readily be combined from two or more counties. The
38 electronic media copies of the precinct lists that are delivered to the
39 party chairmen shall include for each elector the following information:

- 40 1. Name in full and appropriate title.
- 41 2. Party preference.
- 42 3. Date of registration.
- 43 4. Residence address.
- 44 5. Mailing address, if different from residence address.

- 1 6. Zip code.
- 2 7. Telephone number if given.
- 3 8. Birth year.
- 4 9. Occupation if given.
- 5 10. Voting history for all elections in the prior four years and
- 6 any other information regarding registered voters that the county recorder
- 7 or city or town clerk maintains electronically and that is public
- 8 information.

9 11. All data relating to early voters, including ballot requests
10 and ballot returns.

11 D. The names on the precinct lists shall be in alphabetical order
12 and the precinct lists in their entirety, unless otherwise agreed, shall
13 be delivered to each county chairman and each state chairman within ten
14 business days of the close of each date for counting registered voters
15 prescribed by subsection G of this section other than the primary and
16 general election registered voter counts in the same format and media as
17 prescribed by subsection C of this section. During the thirty-three days
18 immediately preceding an election and on request from a county or state
19 chairman, the county recorder shall provide at no cost a daily list of
20 persons who have requested an early ballot and shall provide at no cost a
21 weekly listing of persons who have returned their early ballots. The
22 recorder shall provide the daily and weekly information through the Friday
23 preceding the election. On request from a county chairman or state
24 chairman, the county recorder of a county with a population of more than
25 eight hundred thousand persons shall provide at no cost a daily listing of
26 persons who have returned their early ballots. The daily listing shall be
27 provided Mondays through Fridays, beginning with the first Monday
28 following the start of early voting and ending on the Monday before the
29 election.

30 E. Precinct registers and other lists and information derived from
31 registration forms ~~may be used only for purposes relating to a political~~
32 ~~or political party activity, a political campaign or an election, for~~
33 ~~revising election district boundaries or for any other purpose~~
34 ~~specifically authorized by law and~~ may not be used for a commercial
35 purpose as defined in section 39-121.03. The sale of registers, lists and
36 information derived from registration forms to a candidate or a registered
37 political committee for a use specifically authorized by this subsection
38 does not constitute use for a commercial purpose. The county recorder,
39 the secretary of state and other officers in charge of elections, on a
40 request for ~~an authorized~~ A NONCOMMERCIAL use and within thirty days from
41 receipt of the request, shall prepare additional copies of an official
42 precinct list and furnish them to any person requesting them on payment of
43 a fee equal to the following amounts for the following number of voter
44 registration records provided:

1 1. For one to one hundred twenty-four thousand nine hundred
2 ninety-nine records, \$93.75 plus \$0.0005 per record.

3 2. For one hundred twenty-five thousand to two hundred forty-nine
4 thousand nine hundred ninety-nine records, \$156.25 plus \$0.000375 per
5 record.

6 3. For two hundred fifty thousand to four hundred ninety-nine
7 thousand nine hundred ninety-nine records, \$203.13 plus \$0.00025 per
8 record.

9 4. For five hundred thousand to nine hundred ninety-nine thousand
10 nine hundred ninety-nine records, \$265.63 plus \$0.000125 per record.

11 5. For one million or more records, \$328.13 plus \$0.0000625 per
12 record.

13 F. ~~Any person in possession of a precinct register or list, in~~
14 ~~whole or part, or any reproduction of a precinct register or list, shall~~
15 ~~not permit the register or list to be used, bought, sold or otherwise~~
16 ~~transferred for any purpose except for uses otherwise authorized by this~~
17 ~~section. A person in possession of information derived from voter~~
18 ~~registration forms or precinct registers shall not distribute, post or~~
19 ~~otherwise provide access to any portion of that information through the~~
20 ~~internet except as authorized by subsection I of this section. Nothing in~~
21 This section shall **DOES NOT** preclude public inspection **OR PUBLIC POSTING**
22 of voter registration records ~~at the office of the county recorder for the~~
23 ~~purposes prescribed by this section, except that the month and day of~~
24 ~~birth date, the social security number or any portion thereof, the driver~~
25 ~~license number or nonoperating identification license number, OR the~~
26 ~~Indian census number, the father's name or mother's maiden name, the state~~
27 ~~or country of birth and the records containing a voter's signature and a~~
28 ~~voter's e-mail address~~ shall not be accessible or reproduced by any person
29 other than the voter, by an authorized government official in the scope of
30 the official's duties, for any purpose by an entity designated by the
31 secretary of state as a voter registration agency pursuant to the national
32 voter registration act of 1993 (P.L. 103-31; 107 Stat. 77), for signature
33 verification on petitions and candidate filings, for election purposes and
34 for news gathering purposes by a person engaged in newspaper, radio,
35 television or reportorial work, or connected with or employed by a
36 newspaper, radio or television station or pursuant to a court
37 order. ~~Notwithstanding any other law, a voter's e-mail address may not be~~
38 ~~released for any purpose.~~ A person who violates this subsection or
39 subsection E of this section is guilty of a class 6 felony.

40 G. The county recorder shall count the registered voters by
41 political party by precinct, legislative district and congressional
42 district as follows:

43 1. In even numbered years, the county recorder shall count all
44 persons who are registered to vote as of:

45 (a) January 2.

1 (b) April 1.

2 (c) The last day on which a person may register to be eligible to
3 vote in the next primary election.

4 (d) The last day on which a person may register to be eligible to
5 vote in the next general election.

6 (e) The last day on which a person may register to be eligible to
7 vote in the next presidential preference election.

8 2. In odd numbered years, the county recorder shall count all
9 persons who are registered to vote as of:

10 (a) January 2.

11 (b) April 1.

12 (c) July 1.

13 (d) October 1.

14 H. The county recorder shall report the totals to the secretary of
15 state as soon as is practicable following each of the dates prescribed in
16 subsection G of this section. The report shall include completed
17 registration forms returned in accordance with section 16-134,
18 subsection B. The county recorder shall also provide the report in a
19 uniform electronic computer media format that shall be agreed on between
20 the secretary of state and all county recorders. The secretary of state
21 shall then prepare a summary report for the state and shall maintain that
22 report as a permanent record.

23 I. The county recorder and the secretary of state shall protect
24 access to voter registration information in an auditable format and method
25 specified in the secretary of state's electronic voting system
26 instructions and procedures manual that is adopted pursuant to section
27 16-452.

28 J. The secretary of state shall develop and administer a statewide
29 database of voter registration information that contains the name and
30 registration information of every registered voter in this state. The
31 statewide database is a matter of statewide concern and is not subject to
32 modification or further regulation by a political subdivision. The
33 database shall include an identifier that is unique for each individual
34 voter. The database shall provide for access by voter registration
35 officials and shall allow expedited entry of voter registration
36 information after it is received by county recorders. As a part of the
37 statewide voter registration database, county recorders shall provide for
38 the electronic transmittal of that information to the secretary of state
39 on a real time basis. The secretary of state shall provide for
40 maintenance of the database, including provisions regarding removal of
41 ineligible voters that are consistent with the national voter registration
42 act of 1993 (P.L. 103-31; 107 Stat. 77; 52 United States Code sections
43 20501 through 20511) and the help America vote act of 2002 (P.L. 107-252;
44 116 Stat. 1666; 52 United States Code sections 20901 through 21145),
45 provisions regarding removal of duplicate registrations and provisions to

1 ensure that eligible voters are not removed in error. For the purpose of
2 maintaining compliance with the help America vote act of 2002, each county
3 voter registration system is subject to approval by the secretary of state
4 for compatibility with the statewide voter registration database system.

5 K. Except as provided in subsection L of this section, for requests
6 for the use of registration forms and access to information as provided in
7 subsections E and F of this section, the county recorder shall receive and
8 respond to requests regarding federal, state and county elections.

9 L. Beginning January 1, 2008, recognized political parties shall
10 request precinct lists and access to information as provided in
11 subsections E and F of this section during the time periods prescribed in
12 subsection C or D of this section and the county recorder shall receive
13 and respond to those requests. If the county recorder does not provide
14 the requested materials within the applicable time prescribed for the
15 county recorder pursuant to subsection C or D of this section, a
16 recognized political party may request that the secretary of state provide
17 precinct lists and access to information as provided in subsections E and
18 F of this section for federal, state and county elections. The secretary
19 of state shall not provide access to precinct lists and information for
20 recognized political parties unless the county recorder has failed or
21 refused to provide the lists and materials as prescribed by this section.
22 The secretary of state may charge the county recorder a fee determined by
23 rule for each name or record produced.

24 M. For municipal registration information in those municipalities
25 in which the county administers the municipal elections, county and state
26 party chairmen shall request and obtain voter registration information and
27 precinct lists from the city or town clerk during the time periods
28 prescribed in subsection C or D of this section. If the city or town
29 clerk does not provide that information within the same time prescribed
30 for county recorders pursuant to subsection C or D of this section, the
31 county or state party chairman may request and obtain the information from
32 the county recorder. The county recorder shall provide the municipal
33 voter registration and precinct lists within the time prescribed in
34 subsection C or D of this section.

35 N. The county recorders and the secretary of state shall not
36 prohibit any person or entity prescribed in subsection C of this section
37 from distributing a precinct list to any person or entity that is deemed
38 to be using the precinct list in a lawful manner as prescribed in
39 subsections E and F of this section.

40 Sec. 2. Section 16-544, Arizona Revised Statutes, is amended to
41 read:

42 16-544. Active early voting list; civil penalty; violation;
43 classification; definition

44 A. Any voter may request to be included on a list of voters to
45 receive an early ballot by mail for any election for which the county

1 voter registration roll is used to prepare the election register. The
2 county recorder of each county shall maintain the active early voting list
3 as part of the voter registration roll.

4 B. In order to be included on the active early voting list, the
5 voter shall make a written request specifically requesting that the
6 voter's name be added to the active early voting list for all elections in
7 which the applicant is eligible to vote. An early voter request form
8 shall conform to requirements prescribed in the instructions and
9 procedures manual issued pursuant to section 16-452. The application
10 shall allow for the voter to provide the voter's name, residence address,
11 mailing address in the voter's county of residence, date of birth and
12 signature and shall state that the voter is attesting that the voter is a
13 registered voter who is eligible to vote in the county of residence. The
14 voter shall not list a mailing address that is outside of this state for
15 the purpose of the active early voting list unless the voter is an absent
16 uniformed services voter or overseas voter as defined in the uniformed and
17 overseas citizens absentee voting act ~~of 1986~~ (P.L. 99-410; 52 United
18 States Code section 20310). In lieu of the application, the applicant may
19 submit a written request that contains the required information.

20 C. On receipt of a request to be included on the active early
21 voting list, the county recorder or other officer in charge of elections
22 shall compare the signature on the request form with the voter's signature
23 on the voter's registration form and, if the request is from the voter,
24 shall mark the voter's registration file as an active early ballot
25 request.

26 D. Not less than ninety days before any polling place election
27 scheduled in March or August, the county recorder or other officer in
28 charge of elections shall mail to all voters who are eligible for the
29 election and who are included on the active early voting list an election
30 notice by nonforwardable mail that is marked with the statement required
31 by the postmaster to receive an address correction notification. If an
32 election is not formally called by a jurisdiction by the one hundred
33 twentieth day before the election, the recorder or other officer in charge
34 of elections is not required to send the election notice. The notice
35 shall include the dates of the elections that are the subject of the
36 notice, the dates that the voter's ballot is expected to be mailed and the
37 address where the ballot will be mailed. If the upcoming election is a
38 partisan open primary election and the voter is not registered as a member
39 of one of the political parties that is recognized for purposes of that
40 primary, the notice shall include information on the procedure for the
41 voter to designate a political party ballot. The notice shall be
42 delivered with return postage prepaid and shall also include a means for
43 the voter to do any of the following:

44 1. Change the mailing address for the voter's ballot to another
45 location in the voter's county of residence.

1 2. Update the voter's residence address in the voter's county of
2 residence.

3 3. Request that the voter not be sent a ballot for the upcoming
4 election or elections indicated on the notice.

5 E. If the notice that is mailed to the voter is returned
6 undeliverable by the postal service, the county recorder or other officer
7 in charge of elections shall take the necessary steps to contact the voter
8 at the voter's new residence address in order to update that voter's
9 address or to move the voter to inactive status as prescribed in section
10 16-166, subsection A. If a voter is moved to inactive status, the voter
11 shall be removed from the active early voting list. If the voter is
12 removed from the active early voting list, the voter shall only be added
13 to the active early voting list again if the voter submits a new request
14 pursuant to this section.

15 F. Not later than the first day of early voting, the county
16 recorder or other officer in charge of elections shall mail an early
17 ballot to all eligible voters included on the active early voting list in
18 the same manner prescribed in section 16-542, subsection C. If the voter
19 has not returned the notice or otherwise notified the election officer
20 within forty-five days before the election that the voter does not wish to
21 receive an early ballot by mail for the election or elections indicated,
22 the ballot shall automatically be scheduled for mailing.

23 G. If a voter who is on the active early voting list is not
24 registered as a member of a recognized political party and fails to notify
25 the county recorder of the voter's choice for political party ballot
26 within forty-five days before a partisan open primary election, the
27 following apply:

28 1. The voter shall not automatically be sent a ballot for that
29 partisan open primary election only and the voter's name shall remain on
30 the active early voting list for future elections.

31 2. To receive an early ballot for the primary election, the voter
32 shall submit the voter's choice for political party ballot to the county
33 recorder.

34 H. After a voter has requested to be included on the active early
35 voting list, the voter shall be sent an early ballot by mail automatically
36 for any election at which a voter at that residence address is eligible to
37 vote until any of the following occurs:

38 1. The voter requests in writing to be removed from the active
39 early voting list OR MAKES A VERBAL REQUEST THAT INCLUDES INFORMATION
40 SUFFICIENT TO VERIFY THE VOTER'S IDENTITY.

41 2. The voter's registration or eligibility for registration is
42 moved to inactive status or canceled as otherwise provided by law.

43 3. The notice sent by the county recorder or other officer in
44 charge of elections is returned undeliverable and the county recorder or

1 officer in charge of elections is unable to contact the voter to determine
2 the voter's continued desire to remain on the list.

3 4. The voter fails to vote an early ballot in all elections for two
4 consecutive election cycles. For the purposes of this paragraph,
5 "election" means any regular primary or regular general election for which
6 there was a federal race on the ballot or for which a city or town
7 candidate primary or first election or city or town candidate second,
8 general or runoff election was on the ballot. This paragraph does not
9 apply to:

10 (a) A special taxing district that is authorized pursuant to
11 section 16-191 to conduct its own elections.

12 (b) A special district mail ballot election that is conducted
13 pursuant to article 8.1 of this chapter.

14 I. A voter may make a written request at any time to be removed
15 from the active early voting list. The request shall include the voter's
16 name, residence address, date of birth and signature. On receipt of a
17 completed request to remove a voter from the active early voting list, the
18 county recorder or other officer in charge of elections shall remove the
19 voter's name from the list as soon as practicable.

20 J. An absent uniformed services voter or overseas voter as defined
21 in the uniformed and overseas citizens absentee voting act ~~of 1986~~
22 (P.L. 99-410; 52 United States Code section 20310) is eligible to be
23 placed on the active early voting list pursuant to this section.

24 K. A voter's failure to vote an early ballot once received does not
25 constitute grounds to remove the voter from the active early voting list,
26 except that a county recorder shall remove a voter from the active early
27 voting list if both of the following apply:

28 1. The county recorder or other officer in charge of elections
29 complies with subsection M of this section.

30 2. The voter fails to vote using an early ballot in all of the
31 following elections for two consecutive election cycles:

32 (a) A regular primary and regular general election for which there
33 was a federal race on the ballot.

34 (b) A city or town candidate primary or first election and a city
35 or town candidate second, general or runoff election.

36 L. On or before January 15 of each odd-numbered year, the county
37 recorder or other officer in charge of elections shall send a notice to
38 each voter who is on the active early voting list and who did not vote an
39 early ballot in all elections for two consecutive election cycles as
40 prescribed by subsection K of this section. If the voter has provided the
41 voter's telephone or mobile phone number or email address to the county
42 recorder, the county recorder may additionally provide the notice to the
43 voter by telephone call, text message or email. The notice shall inform
44 the voter that if the voter wishes to remain on the active early voting
45 list, the voter shall do both of the following with the notice received:

1 1. Confirm in writing the voter's desire to remain on the active
2 early voting list.

3 2. Return the completed notice to the county recorder or other
4 officer in charge of elections within ninety days after the notice is sent
5 to the voter. The notice shall be signed by the voter and shall contain
6 the voter's address and date of birth.

7 M. If a voter receives a notice as prescribed by subsection L of
8 this section and the voter fails to respond within the ninety-day period,
9 the county recorder or other officer in charge of elections shall remove
10 the voter's name from the active early voting list.

11 N. A candidate, political committee or other organization may
12 distribute active early voting list request forms to voters. If the
13 active early voting list request forms include a printed address for
14 return, that address shall be the political subdivision that will conduct
15 the election. Failure to use the political subdivision as the return
16 addressee is punishable by a civil penalty of up to three times the cost
17 of the production and distribution of the active early voting list
18 request.

19 O. All original and completed active early voting list request
20 forms that are received by a candidate, political committee or other
21 organization shall be submitted within six business days after receipt by
22 a candidate or political committee or eleven days before the election day,
23 whichever is earlier, to the political subdivision that will conduct the
24 election. Any person, political committee or other organization that
25 fails to submit a completed active early voting list request form within
26 the prescribed time is subject to a civil penalty of up to \$25 per day for
27 each completed form withheld from submittal. Any person who knowingly
28 fails to submit a completed active early voting list request form before
29 the submission deadline for the election immediately following the
30 completion of the form is guilty of a class 6 felony.

31 P. For the purposes of this section, "election cycle" means the
32 two-year period beginning on January 1 in the year after a statewide
33 general election or, for cities and towns, the two-year period beginning
34 on the first day of the calendar quarter after the calendar quarter in
35 which the city's or town's second, runoff or general election is scheduled
36 and ending on the last day of the calendar quarter in which the city's or
37 town's immediately following second, runoff or general election is
38 scheduled, however that election is designated by the city or town.

39 Sec. 3. Section 16-550, Arizona Revised Statutes, is amended to
40 read:

41 16-550. Receipt of voter's ballot; cure period

42 A. On receipt of the envelope containing the early ballot and the
43 ballot affidavit, the county recorder or other officer in charge of
44 elections shall compare the ~~signatures thereon~~ SIGNATURE ON THE ENVELOPE
45 with the signature of the elector on the elector's registration

1 record. FOR ANY COMPARISON WITH THE ELECTOR'S REGISTRATION RECORD, THE
2 COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL REDACT THE
3 ELECTOR'S DESIGNATED POLITICAL PARTY. If the signature is inconsistent
4 with the elector's signature on the elector's registration record, the
5 county recorder or other officer in charge of elections shall make
6 reasonable efforts to contact the voter, advise the voter of the
7 inconsistent signature and allow the voter to correct or the county to
8 confirm the inconsistent signature. The county recorder or other officer
9 in charge of elections shall allow signatures to be corrected not later
10 than the fifth business day after a primary, general or special election
11 that includes a federal office or the third business day after any other
12 election. If the signature is missing, the county recorder or other
13 officer in charge of elections shall make reasonable efforts to contact
14 the elector, advise the elector of the missing signature and allow the
15 elector to add the elector's signature not later than 7:00 p.m. on
16 election day. If satisfied that the signatures correspond, the recorder
17 or other officer in charge of elections shall hold the envelope containing
18 the early ballot and the completed affidavit unopened in accordance with
19 the rules of the secretary of state.

20 B. The recorder or other officer in charge of elections shall
21 thereafter safely keep the affidavits and early ballots in the recorder's
22 or other officer's office and may deliver them for tallying pursuant to
23 section 16-551. Tallying of ballots may begin immediately after the
24 envelope and completed affidavit are processed pursuant to this section
25 and delivered to the early election board.

26 C. The county recorder shall send a list of all voters who were
27 issued early ballots to the election board of the precinct in which the
28 voter is registered.

29 D. This section does not apply to:

30 1. A special taxing district that is authorized pursuant to section
31 16-191 to conduct its own elections.

32 2. A special district mail ballot election that is conducted
33 pursuant to article 8.1 of this chapter.

34 Sec. 4. Section 16-590, Arizona Revised Statutes, is amended to
35 read:

36 16-590. Appointment of challengers and party representatives

37 A. FOR EACH PRECINCT, BY WRITTEN APPOINTMENT ADDRESSED TO THE
38 ELECTION BOARD OR THE COUNTY RECORDER OR OFFICER IN CHARGE OF ELECTIONS,
39 AS APPLICABLE, the county ~~chairman~~ CHAIRPERSON of each party ~~may, for each~~
40 ~~precinct, by written appointment addressed to the election board,~~ MAY
41 designate a party agent or representative and alternates for a polling
42 place in the precinct, A VOTING CENTER IN THE PRECINCT, A LOCATION AT
43 WHICH ELECTRONIC PROCESSING OF BALLOTS OCCURS AND A LOCATION USED BY ANY
44 THIRD-PARTY VENDOR FOR PHYSICAL OR ELECTRONIC PROCESSING OF BALLOT
45 MATERIALS, INCLUDING BALLOT ENVELOPES, who may act as challengers for the

1 party ~~which~~ THAT appointed ~~him~~ THEM. IF THE COUNTY PARTY CHAIRPERSON
2 FAILS TO APPOINT A PARTY AGENT OR REPRESENTATIVE FOR A LOCATION, THE STATE
3 PARTY CHAIRPERSON MAY MAKE THOSE APPOINTMENTS, AND IF THE STATE PARTY
4 CHAIRPERSON FAILS TO APPOINT A PARTY AGENT OR REPRESENTATIVE, THE
5 LEGISLATIVE DISTRICT CHAIRPERSON IN THE AREA IN WHICH THE POLLING PLACE,
6 VOTING CENTER OR OTHER LOCATION IS LOCATED MAY MAKE THOSE APPOINTMENTS FOR
7 A LOCATION.

8 B. At each voting place, one challenger for each political party
9 may be present and act, but ~~no~~ A challenger may NOT enter a voting booth
10 except to mark ~~his~~ THAT CHALLENGER'S ballot.

11 C. Not more than the number of party representatives for each party
12 ~~which~~ WHO were mutually agreed ~~upon~~ ON by each political party represented
13 on the ballot shall be in the polling place OR VOTING CENTER at one
14 time. If ~~such~~ AN agreement cannot be reached, the number of
15 representatives shall be limited to one in the polling place at one time
16 for each political party.

17 D. A challenger or party representative shall be a resident of this
18 state and registered to vote in this state.

19 Sec. 5. Section 16-602, Arizona Revised Statutes, is amended to
20 read:

21 16-602. Removal of ballots from ballot boxes; designated
22 margin; hand counts; vote count verification
23 committee

24 A. For any primary, special or general election in which the votes
25 are cast on an electronic voting machine or tabulator, the election judge
26 shall compare the number of votes cast as indicated on the machine or
27 tabulator with the number of votes cast as indicated on the poll list and
28 the number of provisional ballots cast and that information shall be noted
29 in a written report prepared and submitted to the officer in charge of
30 elections along with other tally reports.

31 B. For each countywide primary, special, general and presidential
32 preference election, the county officer in charge of the election shall
33 conduct a hand count at one or more secure facilities. The hand count
34 shall be conducted as prescribed by this section and in accordance with
35 hand count procedures established by the secretary of state in the
36 official instructions and procedures manual adopted pursuant to section
37 16-452. THE COUNTY OFFICER IN CHARGE OF THE ELECTION SHALL PUBLISH THE
38 PROCEDURES FOR THE HAND COUNT, INCLUDING THE TIMES AND LOCATIONS, ON THE
39 COUNTY'S WEBSITE NOT LATER THAN THE TUESDAY BEFORE ELECTION DAY. The hand
40 count is ~~not~~ subject to the live video requirements of section 16-621,
41 subsection D, ~~but~~ AND the party representatives who are observing the hand
42 count may bring their own video cameras in order to record the hand count.
43 The recording shall not interfere with the conduct of the hand count and
44 the officer in charge of the election may prohibit from recording or
45 remove from the facility persons who are taking actions to disrupt the

1 count. The sole act of recording the hand count does not constitute
 2 sufficient grounds for the officer in charge of the election to prohibit
 3 observers from recording or to remove them from the facility. The hand
 4 count shall be conducted in the following order:

5 1. At least two percent of the precincts in that county, or two
 6 precincts, whichever is greater, shall be selected at random from a pool
 7 consisting of every precinct in that county. The county political party
 8 ~~chairman~~ CHAIRPERSON for each political party that is entitled to
 9 continued representation on the state ballot or the ~~chairman's~~
 10 CHAIRPERSON'S designee shall conduct the selection of the precincts to be
 11 hand counted. The precincts shall be selected by lot without the use of a
 12 computer, and the order of selection by the county political party
 13 ~~chairmen~~ CHAIRPERSONS shall also be by lot. The selection of the
 14 precincts shall not begin until all ballots voted in the precinct polling
 15 places have been delivered to the central counting center. The unofficial
 16 vote totals from all precincts shall be made public before selecting the
 17 precincts to be hand counted. ~~only the~~ Ballots cast in the polling
 18 places, ~~and~~ ballots from direct recording electronic machines, ~~shall be~~
 19 ~~included in the hand counts conducted pursuant to this~~
 20 ~~section.~~ provisional ballots, conditional provisional ballots and write-
 21 in votes shall ~~not~~ be included in the hand counts and the early ballots
 22 shall be grouped separately by the officer in charge of elections for
 23 purposes of a separate manual audit pursuant to subsection F of this
 24 section.

25 2. The races to be counted on the ballots from the precincts that
 26 were selected pursuant to paragraph 1 of this subsection for each primary,
 27 special and general election shall include up to five contested races.
 28 After the county recorder or other officer in charge of elections
 29 separates the primary ballots by political party, the races to be counted
 30 shall be determined by selecting by lot without the use of a computer from
 31 those ballots as follows:

32 (a) For a general election, one statewide ballot measure, unless
 33 there are no measures on the ballot.

34 (b) One contested statewide race for statewide office.

35 (c) One contested race for federal office, either United States
 36 senate or United States house of representatives. If the United States
 37 house of representatives race is selected, the names of the candidates may
 38 vary among the sampled precincts.

39 (d) One contested race for state legislative office, either state
 40 house of representatives or state senate. In either case, the names of
 41 the candidates may vary among the sampled precincts.

42 (e) If there are fewer than four contested races resulting from the
 43 selections made pursuant to subdivisions (a) through (d) of this ~~section~~
 44 PARAGRAPH and if there are additional contested federal, statewide or
 45 legislative races or ballot measures, additional contested races shall be

1 selected by lot not using a computer until four races have been selected
2 or until no additional contested federal, statewide or legislative races
3 or ballot measures are available for selection.

4 (f) If there are no contested races as prescribed by this
5 paragraph, a hand count shall not be conducted for that precinct for that
6 election.

7 3. For the presidential preference election, select by lot two
8 percent of the polling places designated and used pursuant to section
9 16-248 and perform the hand count of those ballots.

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

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

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

19 7. The county ~~chairman~~ CHAIRPERSON of each political party shall
20 designate and provide the number of election board members as designated
21 by the county officer in charge of elections who shall perform the hand
22 count under the supervision of the county officer in charge of
23 elections. For each precinct that is to be audited, the county ~~chairmen~~
24 CHAIRPERSONS shall designate at least two board workers who are registered
25 members of any or no political party to assist with the audit. Any
26 qualified elector from this state may be a board worker without regard to
27 party designation. IF THE COUNTY PARTY CHAIRPERSON FAILS TO DESIGNATE A
28 SUFFICIENT NUMBER OF BOARD WORKERS, THE STATE PARTY CHAIRPERSON SHALL
29 DESIGNATE QUALIFIED ELECTORS TO BE BOARD WORKERS. IF THE STATE PARTY
30 CHAIRPERSON FAILS TO DESIGNATE A SUFFICIENT NUMBER OF BOARD WORKERS, THE
31 LEGISLATIVE DISTRICT CHAIRPERSON OF THE DISTRICT IN WHICH THE HAND COUNT
32 IS TO OCCUR SHALL DESIGNATE QUALIFIED ELECTORS TO BE BOARD WORKERS. The
33 county election officer shall provide for compensation for those board
34 workers, not to include travel, meal or lodging expenses. If there are
35 less than two persons for each audited precinct available to participate
36 on behalf of each recognized political party, the recorder or officer in
37 charge of elections, with the approval of at least two county party
38 chairpersons in the county in which the shortfall occurs, shall substitute
39 additional individual electors who are provided by any political party
40 from anywhere in the state without regard to party designation to conduct
41 the hand count. A county party ~~chairman~~ CHAIRPERSON shall approve only
42 those substitute electors who are provided by the county ~~chairman's~~
43 CHAIRPERSON'S political party. IF THERE ARE FEWER THAN TWO PERSONS FOR
44 EACH AUDITED PRECINCT AVAILABLE TO PARTICIPATE ON BEHALF OF EACH
45 RECOGNIZED POLITICAL PARTY AFTER THE COUNTY OFFICER IN CHARGE OF ELECTIONS

1 SUBSTITUTES ADDITIONAL ELECTORS FROM ANY POLITICAL PARTY, THE COUNTY
2 OFFICER IN CHARGE OF ELECTIONS SHALL PROVIDE A SUFFICIENT NUMBER OF
3 PERMANENT OR TEMPORARY COUNTY EMPLOYEES TO SERVE AS BOARD MEMBERS FOR
4 PURPOSES OF THE HAND COUNT. The political parties shall provide to the
5 recorder or officer in charge of elections in writing the names of those
6 persons intending to participate in the hand count at the audited
7 precincts not later than 5:00 p.m. on the Tuesday preceding the
8 election. If the total number of board workers provided by all parties is
9 less than four times the number of precincts to be audited, the recorder
10 or officer in charge of elections shall notify the parties of the shortage
11 by 9:00 a.m. on the Wednesday preceding the election. ~~The hand count~~
12 ~~shall not proceed unless the political parties provide the recorder or~~
13 ~~officer in charge of elections, in writing, a sufficient number of persons~~
14 ~~by 5:00 p.m. on the Thursday preceding the election and a sufficient~~
15 ~~number of persons, pursuant to this paragraph, arrive to perform the hand~~
16 ~~count.~~ IF THE POLITICAL PARTIES DO NOT PROVIDE A SUFFICIENT NUMBER OF
17 PERSONS BY 9:00 A.M. ON THE THURSDAY PRECEDING THE ELECTION, THE COUNTY
18 OFFICER IN CHARGE OF ELECTIONS SHALL PREPARE A LIST OF QUALIFIED ELECTORS
19 WHO ARE PROVIDED BY ANY POLITICAL PARTY IN THIS STATE AND A NUMBER OF
20 QUALIFIED PERMANENT AND TEMPORARY COUNTY EMPLOYEES SUFFICIENT TO RESOLVE
21 THE SHORTAGE AND SHALL CONDUCT THE HAND COUNT. THE COUNTY OFFICER IN
22 CHARGE OF ELECTIONS SHALL PROVIDE THE LIST OF THOSE PERSONS TO THE COUNTY
23 CHAIRPERSON OF EACH RECOGNIZED POLITICAL PARTY IN THE COUNTY NOT LATER
24 THAN 5:00 P.M. ON THE FRIDAY PRECEDING THE ELECTION. THE SELECTION OF
25 PERSONS TO PERFORM THE HAND COUNT SHALL ENSURE WHEN PRACTICABLE THAT NOT
26 MORE THAN SEVENTY-FIVE PERCENT OF THE PERSONS CONDUCTING THE HAND COUNT
27 ARE MEMBERS OF THE SAME POLITICAL PARTY. The recorder or officer in
28 charge of elections may prohibit persons from participating in the hand
29 count if they are taking actions to disrupt the count or are unable to
30 perform the duties as assigned. ~~For the hand count to proceed, not more~~
31 ~~than seventy-five percent of the persons performing the hand count shall~~
32 ~~be from the same political party.~~

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

37 C. If the randomly selected races result in a difference in any
38 race that is less than the designated margin when compared to the
39 electronic tabulation of those same ballots, the results of the electronic
40 tabulation constitute the official count for that race. If the randomly
41 selected races result in a difference in any race that is equal to or
42 greater than the designated margin when compared to the electronic
43 tabulation of those same ballots, a second hand count of those same
44 ballots and races shall be performed. If the second hand count results in
45 a difference in any race that is less than the designated margin when

1 compared to the electronic tabulation for those same ballots, the
2 electronic tabulation constitutes the official count for that race. If
3 the second hand count results in a difference in any race that is equal to
4 or greater than the designated margin when compared to the electronic
5 tabulation for those same ballots, the hand count shall be expanded to
6 include a total of twice the original number of randomly selected
7 precincts. Those additional precincts shall be selected by lot without
8 the use of a computer.

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

21 E. If a final hand count is performed for an entire jurisdiction
22 for a race, the final hand count shall be repeated for that race until a
23 hand count for that race for the entire jurisdiction results in a count
24 that is identical to one other hand count for that race for the entire
25 jurisdiction and that hand count constitutes the official count for that
26 race.

27 F. After the electronic tabulation of early ballots and at one or
28 more times selected by the ~~chairman~~ CHAIRPERSON of the political parties
29 entitled to continued representation on the ballot or the ~~chairman's~~
30 CHAIRPERSON'S designee, the ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~
31 CHAIRPERSONS' designees shall randomly select one or more batches of early
32 ballots that have been tabulated to include at least one batch from each
33 machine used for tabulating early ballots and those ballots shall be
34 securely sequestered by the county recorder or officer in charge of
35 elections along with their unofficial tally reports for a postelection
36 manual audit. The ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~ CHAIRPERSONS'
37 designees shall randomly select from those sequestered early ballots a
38 number equal to one percent of the total number of early ballots cast or
39 five thousand early ballots, whichever is less. From those randomly
40 selected early ballots, the county officer in charge of elections shall
41 conduct a manual audit of the same races that are being hand counted
42 pursuant to subsection B of this section. If the manual audit of the
43 early ballots results in a difference in any race that is equal to or
44 greater than the designated margin when compared to the electronically
45 tabulated results for those same early ballots, the manual audit shall be

1 repeated for those same early ballots. If the second manual audit results
 2 in a difference in that race that is equal to or greater than the
 3 designated margin when compared to the electronically tabulated results
 4 for those same early ballots, the manual audit shall be expanded only for
 5 that race to a number of additional early ballots equal to one percent of
 6 the total early ballots cast or an additional five thousand ballots,
 7 whichever is less, to be randomly selected from the batch or batches of
 8 sequestered early ballots. If the expanded early ballot manual audit
 9 results in a difference for that race that is equal to or greater than the
 10 designated margin when compared to any of the earlier manual counts for
 11 that race, the manual counts shall be repeated for that race until a
 12 manual count results in a difference in that race that is less than the
 13 designated margin. If at any point in the manual audit of early ballots
 14 the difference between any manual count of early ballots is less than the
 15 designated margin when compared to the electronic tabulation of those
 16 ballots, the electronic tabulation shall be included in the canvass and no
 17 further manual audit of the early ballots shall be conducted.

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

21 H. Notwithstanding any other law, the county officer in charge of
 22 elections shall retain custody of the ballots for purposes of performing
 23 any required hand counts and the officer shall provide for security for
 24 those ballots.

25 I. The hand counts prescribed by this section shall begin within
 26 twenty-four hours after the closing of the polls and shall be completed
 27 before the canvassing of the election for that county. **THE COUNTY SHALL**
 28 **MAKE AVAILABLE ON THE COUNTY'S WEBSITE** the results of those hand counts
 29 **AND** shall ~~be provided~~ **PROVIDE THEM** to the secretary of state, who shall
 30 make those results publicly available on the secretary of state's website.

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

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

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

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

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

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

22 5. Members of the vote count verification committee are not
23 eligible to receive compensation but are eligible for reimbursement of
24 expenses pursuant to title 38, chapter 4, article 2. The committee is a
25 public body and its meetings are subject to title 38, chapter 3, article
26 3.1 and its reports and records are subject to title 39, chapter 1.

27 Sec. 6. Section 16-621, Arizona Revised Statutes, is amended to
28 read:

29 16-621. Proceedings at the counting center and hand count
30 locations

31 A. All proceedings at the counting center **AND AT THE HAND COUNT**
32 **LOCATIONS PRESCRIBED IN SECTION 16-602** shall be under the direction of the
33 board of supervisors or other officer in charge of elections and shall be
34 conducted in accordance with the approved instructions and procedures
35 manual issued pursuant to section 16-452 under the observation of
36 representatives of each political party and the public. The proceedings
37 at the counting center **AND AT THE HAND COUNT LOCATIONS** may also be
38 observed by up to three additional people representing a candidate for
39 nonpartisan office, or representing a political committee in support of or
40 in opposition to a ballot measure, proposition or question. A draw by lot
41 shall determine which three groups or candidates shall have
42 representatives participate in the observation at the counting center **AND**
43 **AT THE HAND COUNT LOCATIONS**. Persons representing a candidate for
44 nonpartisan office or persons or groups representing a political committee
45 in support of or in opposition to a ballot measure, proposition or

1 question, who are interested in participating in the observation, shall
 2 notify the officer in charge of elections of their desire to be included
 3 in the draw not later than seventeen days before the election. After the
 4 deadline to receive submissions from the interested persons or groups, but
 5 prior to fourteen days before the election, the county officer in charge
 6 of elections shall draw by lot, from the list of those that expressed
 7 interest, three persons or groups and those selected shall be notified and
 8 allowed to observe the proceedings at the counting center **AND AT THE HAND**
 9 **COUNT LOCATIONS**. If a group is selected the group may alter who
 10 represents that group for different days of observation but on any given
 11 observation day a selected group shall not send more than one observer. A
 12 group may rotate an observer throughout the day. Only those persons who
 13 are authorized for the purpose shall touch any ballot or ballot card or
 14 return. All persons who are engaged in processing and counting of the
 15 ballots shall be qualified electors, shall be deputized in writing and
 16 shall take an oath that they will faithfully perform their assigned
 17 duties. There shall be no preferential counting of ballots for the
 18 purpose of projecting the outcome of the election. If any ballot,
 19 including any ballot received from early voting, is damaged or defective
 20 so that it cannot properly be counted by the automatic tabulating
 21 equipment, a true duplicate copy shall be made of the damaged or defective
 22 ballot in the presence of witnesses and substituted for the damaged or
 23 defective ballot. All duplicate ballots created pursuant to this
 24 subsection shall be clearly labeled "duplicate" and shall bear a serial
 25 number that shall be recorded on the damaged or defective ballot.

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

31 1. The electronic vote adjudication feature shall be included in
 32 the tabulation system logic and accuracy testing prescribed by section
 33 16-449.

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

43 3. The electronic vote adjudication process used by the electronic
 44 vote adjudication board shall provide for:

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

5 (b) The creation and retention of comprehensive logs of all digital
6 duplication and adjudication actions performed by an electronic vote
7 adjudication board.

8 (c) The retention of the original ballot and the digital duplicate
9 of the ballot.

10 (d) THE OBSERVATION OF THE ELECTRONIC VOTE ADJUDICATION BOARD'S
11 ACTIVITIES BY OBSERVERS AS PRESCRIBED IN THIS SECTION.

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

16 D. For any statewide, county or legislative election, the county
17 recorder or officer in charge of elections shall provide for a live video
18 recording of the custody of all ballots while the ballots are present in a
19 tabulation room in the counting center AND WHILE AT THE HAND COUNT
20 LOCATIONS PRESCRIBED IN SECTION 16-602. The live video recording shall
21 include date and time indicators and shall be linked to the secretary of
22 state's website. The secretary of state shall post links to the video
23 coverage for viewing by the public. The county recorder or officer in
24 charge of elections shall record the video coverage of the ballots at the
25 counting center AND AT THE HAND COUNT LOCATIONS and shall retain those
26 recordings as a public record for at least as long as the challenge period
27 for the general election. If the live video feed is disrupted or
28 disabled, the recorder or officer in charge of elections is not liable for
29 the disruption but shall attempt to reinstate video coverage as soon as is
30 practicable. Any disruption in video coverage shall not affect or prevent
31 the continued tabulation of ballots. This subsection is contingent on
32 legislative appropriation.

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