State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2691

AN ACT
AMENDING SECTIONS 16-503, 16-564, 16-608 AND 16-621, 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 16-503, Arizona Revised Statutes, is amended to read:

16-503. Duty to prepare and provide ballots; cost of printing ballots and instruction cards as public expense

A. The board of supervisors, and in city and town elections, the city or town clerk, shall prepare and provide ballots containing the names of all persons whose certificates of nomination have been filed with them. The ballots shall be printed and ready for inspection by the candidates and their agents at least ten days before a general election and at least five days before a city or town election. For every ballot printed for elections administered by a county, the board of supervisors shall provide a chain of custody record that begins at the printing location and continues through transportation, storage and delivery to the county recorder or other officer in charge of elections and to any voting location. The chain of custody record shall include the time and signature for each point of contact, including the signature of the voting location supervisor when the ballots are received for use in voting or the supervisor when early ballots are received and prepared for mailing.

B. All ballots cast in elections for public office within this state, and the cards of instruction to voters, shall be printed, delivered and distributed at public expense and shall be a county charge, but when used at local elections shall be a charge against the city or town in which the local election is held.

C. For special district elections the governing body is responsible for the duties and charges as provided in subsections A and B of this section.

Sec. 2. Section 16-564, Arizona Revised Statutes, is amended to read:

16-564. Opening, exhibiting and locking ballot box before receipt of ballots; removal and opening of box

A. Before receiving any ballots the election board, in the presence of the persons assembled at the polling place, shall open, exhibit and lock the ballot box with a tamper evident seal, and thereafter the ballot box shall not be removed from the polling place or presence of the bystanders until all ballots are counted, and shall not be opened until after the polls are finally closed, except in the case of an emergency that renders the polling place unusable to the point where it can no longer function as a polling place because law enforcement or other emergency personnel have ordered that the polling place be evacuated or as determined by the officer in charge of elections to allow voting to continue while awaiting an evacuation order from law enforcement or other emergency personnel.
B. If a locked AND SEALED ballot box must be moved from a polling place due to an emergency, at least two members of the election board from that polling place who are not members of the same political party shall accompany the locked AND SEALED ballot box to a new polling place designated by the officer in charge of elections, subject to the following:

1. If practicable and available, a law enforcement officer shall aid in the transfer of the locked AND SEALED ballot box.

2. If two members of the election board from that polling place are not available, one member of the election board and one law enforcement officer may accompany the locked AND SEALED ballot box to the new polling place.

C. If a ballot box was moved due to an emergency, two additional board members shall verify whether the locked AND SEALED ballot box arrived at the new polling place location and that THE TAMPER EVIDENT SEAL was not opened or damaged.

D. All election board members who accompanied the locked AND SEALED ballot box to the new location and the one or two election board members who verified the ballot box's arrival shall file a report with the officer in charge of elections that describes the actions taken by the election board members. This report shall be filed on the day of the emergency.

E. On the day that an emergency occurs as prescribed in subsection A OF THIS SECTION, all election board members, including those who aided in the transfer and verification of the locked AND SEALED ballot box, shall indicate on the official documents containing their oath whether they witnessed the transfer of the ballot box and whether the ballot box remained locked AND SEALED.

F. If during the course of an election day the LOCKED AND SEALED ballot box can no longer accommodate additional ballots, the board members may remove a sufficient number of ballots from the ballot box and shall place the removed ballots into the case that will be used for the transfer of the ballots to the officer in charge of elections. The inspector and both judges shall oversee the transfer and the following shall apply:

1. An immediate count of the number of ballots removed shall be made by the election board members and a sheet CHAIN OF CUSTODY RECORD indicating the count and signed by the board members supervising the count shall be placed in the TAMPER EVIDENT transfer case with the removed ballots and shall be kept sealed for the remainder of the election day.

2. Once the removed ballots are sealed in the TAMPER EVIDENT transfer case, the original ballot box shall be relocked and RESEALED AND voting may continue.

3. At the close of the polls, the removed ballots and the ballots in the locked AND RESEALED ballot box shall be moved together to the tabulating place designated by the officer in charge of elections.
G. At the close of the polls, if a ballot box has been transferred to a new polling place or a ballot box has been opened, a report detailing those events, INCLUDING THE DATE, TIME AND NAME OF ANY ELECTION OFFICER THAT WITNESSED THE TRANSFER OR OPENING OF A BALLOT BOX, and other pertinent information shall be made by the officer in charge of elections to the chairpersons of all recognized political parties in that county.

Sec. 3. Section 16-608, Arizona Revised Statutes, is amended to read:

16-608. Delivery of ballots; chain of custody
A. After the close of the polls and after compliance with section 16-602 the members of the election board shall prepare a report in duplicate of the number of voters who have voted, as indicated on the poll list, and place this report in the ballot box or metal container, in which the voted ballots have been placed, which thereupon shall be sealed with a TAMPER EVIDENT numbered seal and delivered promptly by two members of the election board of different political parties to the central counting place or other receiving station designated by the board of supervisors or officer in charge of elections, which shall not be more than fifty miles from the polling place from which the ballots are delivered. The person in charge of receiving ballots shall give a numbered receipt acknowledging receipt of such THE ballots to the person in charge who delivers such THE ballots.


B. C. The chairman CHAIRPERSON of the county committee of each political party represented on the ballot may designate a member of his THE CHAIRPERSON’S party to accompany the ballots from each polling place to the central counting place. SUCH THIS party representative shall serve without compensation.

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

16-621. Proceedings at the counting center; report
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. A draw by lot shall determine which three groups or candidates shall have representatives participate in the observation at the counting center. 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, 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 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. Only those persons who are authorized for the purpose 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. All damaged and defective ballots that are replaced with a duplicate ballot must be included in a chain of custody record that includes the date, time, location and serial number.

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.

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 AND AT EACH STAGE OF THE SIGNATURE AND AFFIDAVIT VERIFICATION PROCESS, INCLUDING EACH SIGNATURE VERIFICATION WORK STATION. The live video AND recording shall include PROVIDE FOR FULL VISIBILITY OF THE BALLOTS AND date and time indicators 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. 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. THE CHAIN OF CUSTODY RECORDS SHALL INCLUDE THE DATE, TIME, LOCATION AND NAME OF ANY ELECTION OFFICIAL WHO HANDLES OR PROCESSES A BALLOT.