

House Engrossed
elections; ballot chain of custody

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)

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

2 Section 1. Section 16-503, Arizona Revised Statutes, is amended to
3 read:

4 16-503. Duty to prepare and provide ballots; cost of printing
5 ballots and instruction cards as public expense

6 A. The board of supervisors, and in city and town elections, the
7 city or town clerk, shall prepare and provide ballots containing the names
8 of all persons whose certificates of nomination have been filed with them.
9 The ballots shall be printed and ready for inspection by the candidates
10 and their agents at least ten days before a general election and at least
11 five days before a city or town election. **FOR EVERY BALLOT PRINTED FOR**
12 **ELECTIONS ADMINISTERED BY A COUNTY, THE BOARD OF SUPERVISORS SHALL PROVIDE**
13 **A CHAIN OF CUSTODY RECORD THAT BEGINS AT THE PRINTING LOCATION AND**
14 **CONTINUES THROUGH TRANSPORTATION, STORAGE AND DELIVERY TO THE COUNTY**
15 **RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS AND TO ANY VOTING**
16 **LOCATION. THE CHAIN OF CUSTODY RECORD SHALL INCLUDE THE TIME AND**
17 **SIGNATURE FOR EACH POINT OF CONTACT, INCLUDING THE SIGNATURE OF THE VOTING**
18 **LOCATION SUPERVISOR WHEN THE BALLOTS ARE RECEIVED FOR USE IN VOTING OR THE**
19 **SUPERVISOR WHEN EARLY BALLOTS ARE RECEIVED AND PREPARED FOR MAILING.**

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

25 C. For special district elections the governing body is responsible
26 for the duties and charges as provided in subsections A and B **OF THIS**
27 **SECTION.**

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

30 16-564. Opening, exhibiting and locking ballot box before
31 receipt of ballots; removal and opening of box

32 A. Before receiving any ballots the election board, in the presence
33 of the persons assembled at the polling place, shall open, exhibit and
34 lock the ballot box **WITH A TAMPER EVIDENT SEAL**, and thereafter ~~it~~ **THE**
35 **BALLOT BOX** shall not be removed from the polling place or presence of the
36 bystanders until all ballots are counted, ~~it~~ **AND SHALL NOT BE** opened
37 until after the polls are finally closed, except in the case of an
38 emergency that renders the polling place unusable to the point where it
39 can no longer function as a polling place because law enforcement or other
40 emergency personnel have ordered that the polling place be evacuated or as
41 determined by the officer in charge of elections to allow voting to
42 continue while awaiting an evacuation order from law enforcement or other
43 emergency personnel.

1 B. If a locked AND SEALED ballot box must be moved from a polling
2 place due to an emergency, at least two members of the election board from
3 that polling place who are not members of the same political party shall
4 accompany the locked AND SEALED ballot box to a new polling place
5 designated by the officer in charge of elections, subject to the
6 following:

7 1. ~~if practicable and available,~~ A law enforcement officer shall
8 aid in the transfer of the locked AND SEALED ballot box.

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

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

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

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

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

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

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

42 3. At the close of the polls, the removed ballots and the ballots
43 in the locked AND RESEALED ballot box shall be moved together to the
44 tabulating place designated by the officer in charge of elections.

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

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

9 16-608. Delivery of ballots; chain of custody

10 A. After the close of the polls and after compliance with section
11 16-602 the members of the election board shall prepare a report in
12 duplicate of the number of voters who have voted, as indicated on the poll
13 list, and place this report in the ballot box or metal container, in which
14 the voted ballots have been placed, which thereupon shall be sealed with a
15 TAMPER EVIDENT numbered seal and delivered promptly by two members of the
16 election board of different political parties to the central counting
17 place or other receiving station designated by the board of supervisors or
18 officer in charge of elections, which shall not be more than fifty miles
19 from the polling place from which the ballots are delivered. The person
20 in charge of receiving ballots shall give a numbered receipt acknowledging
21 receipt of ~~such~~ THE ballots to the person in charge who delivers ~~such~~ THE
22 ballots.

23 B. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
24 SHALL PREPARE A CHAIN OF CUSTODY RECORD FOR THE TRANSPORTATION AND
25 DELIVERY OF ALL VOTED BALLOTS. THE CHAIN OF CUSTODY RECORD SHALL INCLUDE
26 THE TIME AND SIGNATURE FOR EACH POINT OF CONTACT, INCLUDING THE SIGNATURE
27 OF THE VOTING LOCATION SUPERVISOR WHEN THE ELECTION BOARD MEMBERS LEAVE
28 WITH THE VOTED BALLOTS, THE SIGNATURE OF EACH ELECTION BOARD MEMBER
29 DELIVERING THE VOTED BALLOTS AND THE SIGNATURE OF THE SUPERVISOR AT THE
30 RECEIVING SITE WHO RECEIVES THE VOTED BALLOTS.

31 ~~B.~~ C. The ~~chairman~~ CHAIRPERSON of the county committee of each
32 political party represented on the ballot may designate a member of ~~his~~
33 THE CHAIRPERSON'S party to accompany the ballots from each polling place
34 to the central counting place. ~~Such~~ THIS party representative shall serve
35 without compensation.

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

38 16-621. Proceedings at the counting center; report

39 A. All proceedings at the counting center shall be under the
40 direction of the board of supervisors or other officer in charge of
41 elections and shall be conducted in accordance with the approved
42 instructions and procedures manual issued pursuant to section 16-452 under
43 the observation of representatives of each political party and the public.
44 The proceedings at the counting center may also be observed by up to three
45 additional people representing a candidate for nonpartisan office, or

1 representing a political committee in support of or in opposition to a
2 ballot measure, proposition or question. A draw by lot shall determine
3 which three groups or candidates shall have representatives participate in
4 the observation at the counting center. Persons representing a candidate
5 for nonpartisan office or persons or groups representing a political
6 committee in support of or in opposition to a ballot measure, proposition
7 or question, who are interested in participating in the observation, shall
8 notify the officer in charge of elections of their desire to be included
9 in the draw not later than seventeen days before the election. After the
10 deadline to receive submissions from the interested persons or groups, but
11 prior to fourteen days before the election, the county officer in charge
12 of elections shall draw by lot, from the list of those that expressed
13 interest, three persons or groups and those selected shall be notified and
14 allowed to observe the proceedings at the counting center. If a group is
15 selected the group may alter who represents that group for different days
16 of observation but on any given observation day a selected group shall not
17 send more than one observer. A group may rotate an observer throughout
18 the day. Only those persons who are authorized for the purpose shall
19 touch any ballot or ballot card or return. All persons who are engaged in
20 processing and counting of the ballots shall be qualified electors, shall
21 be deputized in writing and shall take an oath that they will faithfully
22 perform their assigned duties. There shall be no preferential counting of
23 ballots for the purpose of projecting the outcome of the election. If any
24 ballot, including any ballot received from early voting, is damaged or
25 defective so that it cannot properly be counted by the automatic
26 tabulating equipment, a true duplicate copy ~~shall be made~~
27 or defective ballot **SHALL BE MADE** in the presence of witnesses and
28 substituted for the damaged or defective ballot. All duplicate ballots
29 created pursuant to this subsection shall be clearly labeled "duplicate"
30 and shall bear a serial number that shall be recorded on the damaged or
31 defective ballot. **ALL DAMAGED AND DEFECTIVE BALLOTS THAT ARE REPLACED**
32 **WITH A DUPLICATE BALLOT MUST BE INCLUDED IN A CHAIN OF CUSTODY RECORD THAT**
33 **INCLUDES THE DATE, TIME, LOCATION AND SERIAL NUMBER.**

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

39 1. The electronic vote adjudication feature shall be included in
40 the tabulation system logic and accuracy testing prescribed by section
41 16-449.

42 2. The board of supervisors or officer in charge of elections shall
43 appoint an electronic vote adjudication board that consists of two judges
44 who are overseen by an inspector, with the two judges equally divided
45 between the two largest political parties as prescribed by section 16-531,

1 subsection D to adjudicate and submit for tabulation a ballot that is read
2 by the tabulation machine as blank in order to determine if voter intent
3 is clear on a portion or all of the ballot, or any portion of any ballot
4 as prescribed by section 16-610 or 16-611, or to tally write-in choices as
5 prescribed by section 16-612.

6 3. The electronic vote adjudication process used by the electronic
7 vote adjudication board shall provide for:

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

12 (b) The creation and retention of comprehensive logs of all digital
13 duplication and adjudication actions performed by an electronic vote
14 adjudication board.

15 (c) The retention of the original ballot and the digital duplicate
16 of the ballot.

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

21 D. For any statewide, county or legislative election, the county
22 recorder or officer in charge of elections shall provide for a live video
23 recording of the custody of all ballots while the ballots are present in a
24 tabulation room in the counting center AND AT EACH STAGE OF THE SIGNATURE
25 AND AFFIDAVIT VERIFICATION PROCESS, INCLUDING EACH SIGNATURE VERIFICATION
26 WORK STATION. The live video AND recording shall ~~include~~ PROVIDE FOR FULL
27 VISIBILITY OF THE BALLOTS AND date and time indicators and shall be linked
28 to the secretary of state's website. The secretary of state shall post
29 links to the video coverage for viewing by the public. The county
30 recorder or officer in charge of elections shall record the video coverage
31 of the ballots at the counting center and shall retain those recordings as
32 a public record for at least as long as the challenge period for the
33 general election. If the live video feed is disrupted or disabled, the
34 recorder or officer in charge of elections is not liable for the
35 disruption but shall attempt to reinstate video coverage as soon as is
36 practicable. Any disruption in video coverage shall not affect or prevent
37 the continued tabulation of ballots. This subsection is contingent on
38 legislative appropriation.

39 E. The county recorder or other officer in charge of elections
40 shall maintain records that record the chain of custody for all election
41 equipment and ballots during early voting through the completion of
42 provisional voting tabulation. THE CHAIN OF CUSTODY RECORDS SHALL INCLUDE
43 THE DATE, TIME, LOCATION AND NAME OF ANY ELECTION OFFICIAL WHO HANDLES OR
44 PROCESSES A BALLOT.

1 F. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
2 SHALL MAINTAIN A RECORD OF ALL VOTING IRREGULARITIES THAT OCCUR DURING
3 EARLY VOTING, EMERGENCY VOTING AND ELECTION DAY VOTING. THE RECORD SHALL
4 DESCRIBE THE IRREGULARITY, THE LOCATION WHERE IT OCCURRED, THE LOCATION
5 WHERE IT WAS DISCOVERED, THE PERSONS WHO WERE PRESENT WHEN THE
6 IRREGULARITY OCCURRED AND WHEN IT WAS DISCOVERED AND ANY RESPONSE TO THE
7 IRREGULARITY FROM ELECTION OFFICIALS. WITHIN THIRTY DAYS AFTER ELECTION
8 DAY, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL
9 PROVIDE THAT RECORD TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
10 HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THE RECORD TO THE
11 SECRETARY OF STATE.