

Senate Engrossed

election violations; disenfranchisement; new election

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1695

AN ACT

AMENDING SECTION 16-642, 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 16-642, Arizona Revised Statutes, is amended to
3 read:

4 16-642. Canvass of election; postponements; new election;
5 forfeiture

6 A. The governing body holding an election shall meet and canvass
7 the election not less than six days nor more than twenty days following
8 the election.

9 B. The governing body of a special district as defined in title 48
10 shall present to the board of supervisors a certified copy of the official
11 canvass of the election at the next regularly scheduled meeting of the
12 board of supervisors. For purposes of contesting a special district
13 election as described in section 16-673, the canvass is not complete until
14 the presentation to the board of supervisors is made.

15 C. If, at the time of the meeting of the governing body, the
16 returns from any polling place in the election district where the polls
17 were opened and an election held are found to be missing, the canvass
18 shall be postponed from day to day until all the returns are received or
19 until six postponements have been had.

20 D. FOR THE PRIMARY AND GENERAL ELECTION, THE COUNTY BOARD OF
21 SUPERVISORS, COUNTY RECORDER AND COUNTY OFFICER IN CHARGE OF ELECTIONS
22 SHALL NOT CANVASS THE RESULTS OF THE ELECTION IF AN ELECTION OFFICIAL FOR
23 THAT ELECTION VIOLATES A PROVISION OF THIS TITLE OR THE INSTRUCTIONS AND
24 PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452 AND ALL OF THE
25 FOLLOWING OCCUR:

26 1. VOTERS IN THE COUNTY ARE DISENFRANCHISED AS A RESULT OF AT LEAST
27 ONE OF THE FOLLOWING OCCURRING:

28 (a) VOTERS WAIT MORE THAN NINETY MINUTES OUTSIDE OF A VOTING
29 LOCATION. A VOTER'S WAIT TIME IS CALCULATED AS BEGINNING WHEN A VOTER
30 JOINS A LINE OF PERSONS WHO ARE WAITING TO VOTE OUTSIDE OF THE VOTING
31 LOCATION UNTIL THAT VOTER SUBMITS THE VOTER'S BALLOT INTO A TABULATOR IF
32 THE LOCATION USES AN ON-SITE TABULATOR OR DEPOSITS THE BALLOT IN THE
33 SECURE CONTAINER PROVIDED FOR THAT PURPOSE.

34 (b) AN ELECTION OFFICIAL FOR THAT ELECTION FAILS TO COMPLY WITH A
35 PROVISION OF THIS TITLE OR THE INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED
36 PURSUANT TO SECTION 16-452.

37 (c) THE BALLOT CHAIN OF CUSTODY IS NOT MAINTAINED AS PRESCRIBED BY
38 THIS TITLE OR THE INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED PURSUANT TO
39 SECTION 16-452.

40 2. VOTERS COMPLETE AND SUBMIT WITHIN FIVE DAYS AFTER ELECTION DAY
41 AN AFFIDAVIT IN SUBSTANTIALLY THE FOLLOWING FORM THAT ALLEGES FACTS THAT
42 SUPPORT AT LEAST ONE OF THE CLAIMS PRESCRIBED BY PARAGRAPH 1 OF THIS
43 SUBSECTION:

AFFIDAVIT OF VOTER

I, _____, RESIDING AT _____ IN _____ COUNTY, ARIZONA, HEREBY SWEAR OR AFFIRM THAT:

___ I WAITED MORE THAN NINETY MINUTES OUTSIDE OF A VOTING LOCATION BEFORE I COULD COMPLETE AND SUBMIT MY BALLOT. THE LOCATION, DATE AND TIME OF THIS EVENT WAS AT _____, ON _____ AT _____.M.

___ I WITNESSED AN ELECTION OFFICIAL'S FAILURE TO COMPLY WITH THE STATUTES OR THE ELECTIONS PROCEDURES MANUAL BY _____ AT _____, ON _____ AT _____.M.

___ I WITNESSED A FAILURE TO MAINTAIN A BALLOT'S CHAIN OF CUSTODY BY _____ AT _____, ON _____ AT _____.M. _____, SIGNED ON _____

3. A SUFFICIENT NUMBER OF VOTERS SUBMIT COMPLETED AFFIDAVITS TO THE CLERK OF THE SUPERIOR COURT FOR THE COUNTY IN WHICH THE EVENTS OCCURRED TO REQUIRE ACTION BY A SUPERIOR COURT JUDGE. FOR A COUNTY WITH ONE MILLION REGISTERED VOTERS OR MORE, ONE THOUSAND VOTERS IN THAT COUNTY IS A SUFFICIENT NUMBER AS PRESCRIBED BY THIS PARAGRAPH. FOR A COUNTY WITH FEWER THAN ONE MILLION REGISTERED VOTERS, TWO HUNDRED FIFTY VOTERS IS A SUFFICIENT NUMBER AS PRESCRIBED BY THIS PARAGRAPH.

4. A SUPERIOR COURT JUDGE ORDERS THE CANVASS TO BE DELAYED AND APPOINTS A SPECIAL MASTER TO EXAMINE THE SUBMITTED AFFIDAVITS AND CONFIRM THE NECESSARY FACTS WITHIN FIVE DAYS AFTER THE DATE THE AFFIDAVITS ARE REQUIRED TO BE SUBMITTED TO THE CLERK OF THE SUPERIOR COURT AS PRESCRIBED BY PARAGRAPH 3 OF THIS SUBSECTION. THE COURT SHALL ORDER THE CANVASS DELAYED AND APPOINT A SPECIAL MASTER IF A SUFFICIENT NUMBER OF SUBMITTED AFFIDAVITS ARE CONFIRMED. THE SPECIAL MASTER MUST BE A CERTIFIED ELECTION OFFICER IN THIS STATE WHO CONDUCTS ELECTIONS IN A COUNTY OTHER THAN THE COUNTY AFFECTED BY THE COURT'S ORDERS.

5. THE COURT DECLARES THE ELECTION TO BE A FAILED ELECTION AND ORDERS THE COUNTY BOARD OF SUPERVISORS TO CALL ANOTHER ELECTION TO BE HELD WITHIN SIXTY DAYS AFTER THE COURT'S DECLARATION. THE COURT SHALL ORDER THE ELECTION TO BE SUPERVISED BY THE SPECIAL MASTER APPOINTED AS PRESCRIBED BY PARAGRAPH 4 OF THIS SUBSECTION. THE COURT SHALL DECLARE THE ELECTION TO BE A FAILED ELECTION IF THE COURT CONFIRMS THE NECESSARY FACTS AS PRESCRIBED BY PARAGRAPH 4 OF THIS SUBSECTION.

E. THE COUNTY BOARD OF SUPERVISORS, COUNTY RECORDER AND COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL HOLD A NEW PRIMARY OR GENERAL ELECTION IF SO ORDERED BY THE COURT.

F. ANY MEMBER OF THE BOARD OF SUPERVISORS WHO VIOLATES SUBSECTION D OR E OF THIS SECTION SHALL FORFEIT THAT OFFICE.

G. SUBSECTIONS D AND E OF THIS SECTION DO NOT APPLY TO A PRESIDENTIAL CONTEST.