

REFERENCE TITLE: open primary election

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

HB 2799

Introduced by
Representative Blattman

AN ACT

AMENDING SECTIONS 16-301, 16-302, 16-461, 16-462, 16-467, 16-468 AND
16-645, 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 16-301, Arizona Revised Statutes, is amended to read:

16-301. Nomination of candidates for printing on official ballot of general or special election

A. At a primary election, each political party entitled and intending to ~~make nominations for~~ HAVE ITS CANDIDATES ADVANCE TO the ensuing general or special election, if it desires to have the names of its candidates printed on the official ballot at that general or special election, shall ~~nominate~~ HAVE its candidates for all elective, senatorial, congressional, state, judicial, county and precinct offices to be filled at such election except as provided in section 16-344 ~~APPEAR ON THE PRIMARY ELECTION BALLOT~~.

B. Not later than sixty days before the date of the general election, a candidate for governor shall submit to the secretary of state the name of the person who will be the joint candidate for lieutenant governor with that gubernatorial candidate and whose name will appear on the general election ballot jointly with the candidate for governor.

Sec. 2. Section 16-302, Arizona Revised Statutes, is amended to read:

16-302. Failure to nominate candidate in primary election

If no candidate ~~is nominated~~ RECEIVES THE HIGHEST OR SECOND HIGHEST NUMBER OF VOTES in the primary election for a particular office, then no candidate for that office for that party may appear on the general or special election ballot except as provided in section 16-344.

Sec. 3. Section 16-461, Arizona Revised Statutes, is amended to read:

16-461. Sample primary election ballots: submission to party chairmen for examination; preparation, printing and distribution of ballot

A. At least forty-five days before a primary election, the officer in charge of that election shall:

1. Prepare a proof of a sample ballot.

2. Submit the sample ballot proof of each party to the county chairman or in city or town primaries to the city or town chairman.

3. Mail a sample ballot proof to each candidate for whom a nomination paper and petitions have been filed.

B. Within five days after ~~receipt of~~ RECEIVING the sample ballot, the county chairman of each political party shall suggest to the election officer any change the chairman considers should be made in the ~~chairman's party~~ PRIMARY ELECTION ballot, and if on examination the election officer finds an error or omission in the ballot the officer shall correct it. The election officer shall ~~cause~~ PRINT AND DISTRIBUTE the sample ballots ~~to be printed and distributed~~ as required by law, shall maintain a copy of ~~each~~ THE sample ballot and shall post a notice indicating that sample

1 ballots are available on request. The official sample ballot shall be
 2 printed ~~on colored paper or white paper with a different colored stripe~~
 3 ~~for~~ AS A SINGLE BALLOT WITH ALL OF THE CANDIDATES FOR each party that is
 4 represented on that ballot. For voters who are not registered with a
 5 party that is entitled to continued representation on the ballot pursuant
 6 to section 16-804, the election officer may print and distribute the
 7 required sample ballots in an alternative format, including a reduced size
 8 format.

9 C. Not later than forty days before a primary election, the county
 10 chairman of a political party may request one sample primary election
 11 ballot ~~of the chairman's party~~ for each election precinct.

12 D. The board of supervisors shall have printed mailer-type sample
 13 ballots for a primary election and shall mail at least eleven days before
 14 the election one sample ballot ~~of a political party~~ to each household
 15 containing a registered voter ~~of that political party~~ unless that
 16 registered voter is on the active early voting list established pursuant
 17 to section 16-544. Each sample ballot shall contain the following
 18 statement: "This is a sample ballot and cannot be used as an official
 19 ballot under any circumstances". A certified claim shall be presented to
 20 the secretary of state by the board of supervisors for the actual cost of
 21 printing, labeling and postage of each sample ballot actually mailed, and
 22 the secretary of state shall direct payment of the authenticated claim
 23 from funds of the secretary of state's office.

24 E. For city and town elections, the governing body of a city or
 25 town may have printed mailer-type sample ballots for a primary election.
 26 If the city or town has printed such sample ballots, the city or town
 27 shall provide for the distribution of such ballots and shall bear the
 28 expense of printing and distributing ~~of~~ such sample ballots.

29 F. The return address on the mailer-type sample ballots shall not
 30 contain the name of an appointed or elected public officer nor may the
 31 name of an appointed or elected public officer be used to indicate who
 32 produced the sample ballot.

33 G. The great seal of the state of Arizona shall be imprinted along
 34 with the words "official voting materials" on the mailing face of each
 35 sample ballot. In county, city or town elections the seal of such
 36 jurisdiction shall be substituted for the state seal.

37 Sec. 4. Section 16-462, Arizona Revised Statutes, is amended to
 38 read:

39 16-462. Form of paper ballot

40 The ballots for a primary election shall be printed with ~~a different~~
 41 ~~color designation for each political party that is included on the ballot.~~
 42 ~~Unless otherwise provided by law, the ballot shall be printed; THE WORDS~~
 43 "official ballot ~~of the _____ party,~~ FOR THE primary election (date),
 44 _____ precinct, county (or city or town) of _____, state of
 45 Arizona" AND SHALL NOT INCLUDE A POLITICAL PARTY NAME IN THE HEADING.

Below the heading shall be placed the title of each office to be voted for, and an instruction to the voter as to how many are to be voted for for the particular office, thus: "vote for not more than _____" (insert the number to be elected), under which shall be placed alphabetically and alternated, as provided by law, the names of all the ~~party's~~ candidates to be voted for in each precinct of the county or precinct or ward of the city or town for whom nomination papers have been filed for such office, **ALONG WITH THE POLITICAL PARTY DESIGNATION OF EACH CANDIDATE**, leaving as many blank lines as there are offices under that title to be filled, followed by a place for the voter to make a mark to indicate the voter's choice either to the right or the left of the candidate's name, and of the blank line. **ALL CANDIDATES WHO HAVE PROPERLY FILED PARTISAN NOMINATION PAPERS AS A CANDIDATE OF A POLITICAL PARTY SHALL BE PRINTED ON THE SAME BALLOT.** Double or more columns may be arranged on the ballot. In other respects the ballot shall conform as nearly as possible to the ballot prescribed for general elections.

Sec. 5. Section 16-467, Arizona Revised Statutes, is amended to read:

16-467. Method of voting on ballot

A. At primary elections ~~there shall be provided~~ a ~~separate~~ SINGLE ballot ~~for each party~~ **CONTAINING ALL CANDIDATES FOR ALL POLITICAL PARTIES THAT ARE** entitled to participate in the primary **SHALL BE PROVIDED.**

~~B. Each party ballot shall be designated by the name of the party, and for a voter who is registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the voter shall be given by the judge of election one ballot only of the party with which the voter is affiliated as it appears in the precinct register. For a voter who is registered as independent, or no party preference or as a member of a political party that is not entitled to continued representation on the ballot pursuant to section 16-804, the voter shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the judge of election shall give the elector only that political party's ballot.~~

~~C.~~ B. If a person is nominated on more than one ticket, the person shall promptly file with the officer in charge of the preparation of election ballots a written declaration indicating the party name under which the person's name is to be printed on the official election ballot, and the person's name shall be printed only under the party name.

~~D.~~ C. For any political party that is entitled to continued representation on the ballot, section 16-822 applies to the election of precinct committeemen.

1 Sec. 6. Section 16-468, Arizona Revised Statutes, is amended to
2 read:

3 16-468. Form of ballot; optical scanning system; sample
4 ballots

5 For any ballots intended for use in an optical scanning system, the
6 following apply:

7 1. As nearly as is practicable, ballots shall have material printed
8 in the same order as provided for paper ballots, except that material may
9 be printed in vertical or horizontal rows or on separate pages.

10 2. Ballots shall be printed in plain clear type in black ink, ~~and~~
11 ~~for a general election,~~ on clear white materials, ~~and shall be of a size~~
12 ~~and arrangement to fit the construction of the vote tabulating equipment~~
13 ~~or other voting device. For a primary election, ballots shall have a~~
14 ~~different color indicator for each political party that is~~
15 ~~represented.~~ Ballots may contain printed code marks that may be used for
16 placing the ballots in the correct position for tabulating devices. The
17 code marks shall not be printed or used in any manner that will disclose
18 the identity of the voter who votes that ballot.

19 3. The titles of offices may be arranged in vertical columns or in
20 a series of separate pages and shall be printed above or at the side of
21 the names of candidates in order to clearly indicate the candidates for
22 each office and the number to be elected. THE NAME OF THE POLITICAL PARTY
23 OF EACH CANDIDATE SHALL BE PRINTED NEXT TO THE NAME OF THE CANDIDATE. If
24 there are more candidates for an office than can be printed in one column
25 or on one ballot page, the ballot shall be clearly marked to indicate that
26 the list of candidates is continued on the following column or page and,
27 as nearly as is practicable, so that the same number of names is printed
28 in each column or on each page.

29 4. As nearly as is practicable, in primary and nonpartisan
30 elections, the names of candidates for each office shall appear on the
31 ballot so that each candidate occupies each position on the ballot the
32 same number of times. If there are fewer or the same number of candidates
33 seeking office than the number to be elected, rotation of names is not
34 required and the names shall be placed in alphabetical order.

35 5. As nearly as is practicable, in a primary election for a
36 judicial office, if there are two or more candidates of the same political
37 party, the candidate names shall be alternated on the ballot so that the
38 name of each candidate appears an equal number of times in each possible
39 location on the ballot.

40 6. Two sample ballots shall be provided for each polling place and
41 shall be posted at the polling place on election day. Sample ballots may
42 be printed on a single page or on a number of pages that are assembled
43 together. A sample ballot shall be a facsimile copy of the official
44 ballot.

1 Sec. 7. Section 16-645, Arizona Revised Statutes, is amended to
2 read:

3 16-645. Canvass and return of precinct vote; certificate of
4 advancement; write-in candidates

5 A. When the board of supervisors, or the governing body of a city
6 or town, has completed its canvass of precinct returns, the ~~person~~ TWO
7 PERSONS having the largest AND SECOND LARGEST number of votes, or if more
8 than one candidate is necessary, those candidates to the required number
9 who have received the largest AND NEXT LARGEST number of votes for the
10 ~~nomination for an office in the political party of which the person was~~
11 ~~set forth on the ballot as a candidate for the nomination~~, shall be
12 ~~declared the nominee of the party~~ ADVANCE TO THE GENERAL ELECTION for that
13 office and shall be given a certificate of ~~nomination~~ ADVANCEMENT for that
14 office by the board or governing body, which shall entitle the person to
15 have the person's name placed on the official ballot at the ensuing
16 election ~~as the nominee of the party~~ AS A CANDIDATE for the office. When
17 canvassing write-in votes the apparent intent of the voter shall be taken
18 into consideration to the extent possible and the standard prescribed for
19 federal write-in candidates in section 16-543.02, subsection C applies.

20 B. The board of supervisors shall deliver the canvass to the
21 secretary of state within fourteen days after the primary election, and
22 the secretary of state shall on or before the third Monday following the
23 primary election canvass the return and issue a letter declaring
24 ~~nomination~~ THE CANDIDATES WHO ADVANCE TO THE GENERAL ELECTION as provided
25 in this section ~~to the nominees who filed nominating petitions and papers~~
26 ~~with the secretary of state pursuant to section 16-311, subsection D~~. For
27 any ~~partisan~~ primary election, the governing body or officer in charge of
28 elections shall prepare and transmit to the secretary of state along with
29 the official canvass the total ~~by party of partisan ballots selected~~
30 NUMBER OF VOTES CAST in that primary election by voters who registered as
31 A MEMBER OF A POLITICAL PARTY THAT IS QUALIFIED FOR REPRESENTATION ON THE
32 BALLOT, AS no party preference, as independents or as members of a
33 political party that is not qualified for representation on the ballot.

34 C. A certificate of election shall not be issued to a write-in
35 candidate for precinct committeeman or a write-in candidate for a
36 nonpartisan office unless the candidate receives a number of votes
37 equivalent to at least the same number of signatures required by section
38 16-322 for nominating petitions for the same office.

39 D. Except as provided in subsection C of this section, a letter
40 declaring ~~nomination~~ THE CANDIDATE AS ADVANCING TO THE GENERAL ELECTION
41 shall not be issued to a write-in candidate of a party that has not
42 qualified for continued representation on the official ballot pursuant to
43 section 16-804 unless the candidate receives a plurality of the votes of
44 the party for the office for which the candidate is a candidate.

1 E. Except as provided by subsection C of this section, a letter
2 declaring ~~nomination~~ THE CANDIDATE AS ADVANCING TO THE GENERAL ELECTION
3 shall not be issued to a write-in candidate of a party qualified for
4 continued representation on the official ballot unless the candidate
5 receives a number of votes equivalent to at least the same number of
6 signatures required by section 16-322 for nominating petitions for the
7 same office.

8 F. A certificate of election shall not be issued to presidential
9 electors who are pledged to a write-in candidate for president unless that
10 candidate received the highest number of votes cast for the office of
11 president.

12 Sec. 8. Conforming legislation

13 The legislative council staff shall prepare proposed legislation
14 conforming the Arizona Revised Statutes to the provisions of this act for
15 consideration in the fifty-sixth legislature, second regular session.