

REFERENCE TITLE: elections; recounts; canvass; testing; ballots

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2816

Introduced by

Representatives Terech: Aguilar, Austin, Blattman, Contreras L, Contreras P, Crews, De Los Santos, Gutierrez, Hernandez A, Hernandez C, Hernandez L, Hernandez M, Hodge, Mathis, Ortiz, Pawlik, Peshlakai, Quiñonez, Sandoval, Schwiebert, Seaman, Stahl Hamilton, Travers, Tsosie, Villegas

AN ACT

AMENDING SECTIONS 16-461, 16-510, 16-622, 16-642, 16-645, 16-646, 16-648, 16-661, 16-662, 16-663 AND 16-664, 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 16-461, Arizona Revised Statutes, is amended to
3 read:

4 16-461. Sample primary election ballots; submission to party
5 chairmen for examination; preparation, printing and
6 distribution of ballot

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

9 1. Prepare a proof of a sample ballot.

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

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

14 B. Within ~~five~~ TWO CALENDAR days after receipt of the sample
15 ballot, the county chairman of each political party shall suggest to the
16 election officer any change the chairman considers should be made in the
17 chairman's party ballot, and if on examination the election officer finds
18 an error or omission in the ballot, the officer shall correct it. The
19 election officer shall ~~cause~~ PRINT AND DISTRIBUTE the sample ballots ~~to be~~
20 ~~printed and distributed~~ as required by law, shall maintain a copy of each
21 sample ballot and shall post a notice indicating that sample ballots are
22 available on request. The official sample ballot shall be printed on
23 colored paper or white paper with a different colored stripe for each
24 party that is represented on that ballot. For voters who are not
25 registered with a party that is entitled to continued representation on
26 the ballot pursuant to section 16-804, the election officer may print and
27 distribute the required sample ballots in an alternative format, including
28 a reduced size format.

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

32 D. The board of supervisors shall have printed mailer-type sample
33 ballots for a primary election and shall mail at least eleven days before
34 the election one sample ballot of a political party to each household
35 containing a registered voter of that political party unless that
36 registered voter is on the active early voting list established pursuant
37 to section 16-544. Each sample ballot shall contain the following
38 statement: "This is a sample ballot and cannot be used as an official
39 ballot under any circumstances". A certified claim shall be presented to
40 the secretary of state by the board of supervisors for the actual cost of
41 printing, labeling and postage of each sample ballot actually mailed, and
42 the secretary of state shall direct payment of the authenticated claim
43 from funds of the secretary of state's office.

44 E. For city and town elections, the governing body of a city or
45 town may have printed mailer-type sample ballots for a primary election.

1 If the city or town has printed such sample ballots, the city or town
2 shall provide for the distribution of such ballots and shall bear the
3 expense of printing and distributing ~~of~~ such sample ballots.

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

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

12 Sec. 2. Section 16-510, Arizona Revised Statutes, is amended to
13 read:

14 16-510. Sample ballots: preparation and distribution

15 A. Before printing the sample ballots for the general election the
16 board of supervisors shall send to each candidate whose name did not
17 appear on the preceding primary election ballot **AND TO THE COUNTY**
18 **CHAIRPERSON OF EACH POLITICAL PARTY** a ballot proof of the sample ballot
19 for the candidate's **AND CHAIRPERSON'S** review. **WITHIN TWO CALENDAR DAYS**
20 **AFTER RECEIPT OF THE SAMPLE BALLOT, THOSE CANDIDATES AND THE COUNTY**
21 **CHAIRPERSON OF EACH POLITICAL PARTY SHALL SUGGEST TO THE ELECTION OFFICER**
22 **ANY CHANGE THE CANDIDATE OR CHAIRPERSON CONSIDERS SHOULD BE MADE TO THE**
23 **BALLOT, AND IF ON EXAMINATION THE ELECTION OFFICER FINDS AN ERROR OR**
24 **OMISSION IN THE BALLOT, THE OFFICER SHALL CORRECT THE ERROR OR OMISSION.**

25 B. The board of supervisors shall print and distribute, for the
26 information of voters at each polling place, a number of sample ballots as
27 it deems necessary.

28 C. The board of supervisors shall have printed mailer-type sample
29 ballots for a general election and shall mail at least eleven days before
30 the election one such sample ballot to each household in the county
31 containing a registered voter unless that registered voter is on the
32 active early voting list established pursuant to section 16-544. Each
33 sample ballot shall contain the following statement: "This is a sample
34 ballot and cannot be used as an official ballot under any
35 circumstances". A certified claim shall be presented to the secretary of
36 state by the board of supervisors for the actual cost of printing,
37 labeling and postage of each sample ballot actually mailed, and the
38 secretary of state shall direct payment of the authenticated claim from
39 funds of the secretary of state's office.

40 D. For city and town elections, the governing body of a city or
41 town may have printed mailer-type sample ballots for a general
42 election. If the city or town has printed such sample ballots, the city
43 or town shall provide for the distribution of such ballots and shall bear
44 the expense of printing and distributing such sample ballots.

1 E. For special district elections, the governing body of a special
2 district may have printed mailer-type sample ballots. If the special
3 district has printed such sample ballots, the special district shall
4 provide for the distribution of such ballots and shall bear the expense of
5 printing and distributing such sample ballots.

6 Sec. 3. Section 16-622, Arizona Revised Statutes, is amended to
7 read:

8 16-622. Official canvass; unofficial results

9 A. At any time following the close of the polls, except as provided
10 in section 16-551, subsection C, unofficial returns may be released during
11 the counting of the ballots by vote tabulating equipment, and ~~upon~~ ON
12 completion of the count the unofficial results shall be open to the
13 public. The result printed by the vote tabulating equipment, to which
14 have been added write-in and early votes, ~~shall~~, when certified by the
15 board of supervisors or other officer in charge, SHALL constitute the
16 official canvass of each precinct or election district.

17 B. In any election for a federal office, a statewide office or a
18 member of the legislature or in any election for a statewide ballot
19 measure, all unofficial returns that are released during the counting of
20 the ballots and all unofficial results that are open to the public shall
21 when released to the public be transmitted by telephone, by ~~telefacsimile~~
22 FAX or by other electronic means to the secretary of state. ON COMPLETION
23 OF ALL OFFICIAL RESULTS AND COMPLETION OF THE CANVASS BY THE BOARD OF
24 SUPERVISORS, THE BOARD OF SUPERVISORS SHALL TRANSMIT BY ELECTRONIC MEANS
25 THE OFFICIAL CANVASS OF THE ELECTIONS PRESCRIBED BY THIS SUBSECTION TO THE
26 SECRETARY OF STATE.

27 Sec. 4. Section 16-642, Arizona Revised Statutes, is amended to
28 read:

29 16-642. Canvass of election; postponements; exception

30 A. The governing body holding an election shall meet and canvass
31 the election not less than six days nor more than twenty days following
32 the election EXCEPT THAT FOR A GENERAL ELECTION, THE COUNTY BOARD OF
33 SUPERVISORS SHALL MEET AND CANVASS THE ELECTION NOT LATER THAN THE THIRD
34 THURSDAY AFTER THE GENERAL ELECTION.

35 B. The governing body of a special district as defined in title 48
36 shall present to the board of supervisors a certified copy of the official
37 canvass of the election at the next regularly scheduled meeting of the
38 board of supervisors. For purposes of contesting a special district
39 election as described in section 16-673, the canvass is not complete until
40 the presentation to the board of supervisors is made.

41 C. If, at the time of the meeting of the governing body, the
42 returns from any polling place in the election district where the polls
43 were opened and an election held are found to be missing, the canvass
44 shall be postponed from day to day until all the returns are received or

1 until six postponements have been had. THIS SUBSECTION DOES NOT APPLY TO
2 THE PRIMARY OR GENERAL ELECTION.

3 Sec. 5. Section 16-645, Arizona Revised Statutes, is amended to
4 read:

5 16-645. Canvass and return of precinct vote; declaring
6 nominee of party; certificate of nomination;
7 write-in candidates

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

22 B. The board of supervisors shall deliver the OFFICIAL canvass BY
23 ELECTRONIC MEANS to the secretary of state ~~within fourteen days~~ ON OR
24 BEFORE THE SECOND MONDAY after the primary election, and the secretary of
25 state shall on or before the third ~~Monday~~ THURSDAY following the primary
26 election canvass the return and issue a letter declaring nomination as
27 provided in this section to the nominees who filed nominating petitions
28 and papers with the secretary of state pursuant to section 16-311,
29 subsection D. For any partisan primary election, the governing body or
30 officer in charge of elections shall prepare and transmit to the secretary
31 of state along with the official canvass the total by party of partisan
32 ballots selected in that primary election by voters who registered as no
33 party preference, as independents or as members of a political party that
34 is not qualified for representation on the ballot.

35 C. A certificate of election shall not be issued to a write-in
36 candidate for precinct committeeman or a write-in candidate for a
37 nonpartisan office unless the candidate receives a number of votes
38 equivalent to at least the same number of signatures required by section
39 16-322 for nominating petitions for the same office.

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

E. Except as provided by subsection C of this section, a letter declaring nomination shall not be issued to a write-in candidate of a party qualified for continued representation on the official ballot unless the candidate receives a number of votes equivalent to at least the same number of signatures required by section 16-322 for nominating petitions for the same office.

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

Sec. 6. Section 16-646, Arizona Revised Statutes, is amended to read:

16-646. Statement, contents and mailing of official canvass

A. When the result of the canvass is determined, a statement, known and designated as the official canvass, shall be entered on the official record of the election district that shall show:

1. The number of ballots cast in each precinct and in the county.
2. The number of ballots rejected in each precinct and in the county.
3. The titles of the offices voted for and the names of the persons, together with the party designation, if any, of each person voted for to fill the offices.
4. The number of votes by precincts and county received by each candidate.
5. For each candidate race in each political subdivision prescribed by section 16-204.01, the number of ballots cast and the number of active registered voters in each political subdivision and portion of a political subdivision for which a candidate may be elected.
6. The numbers and a brief title of each proposed constitutional amendment and each initiated or referred measure voted on.
7. The number of votes by precincts and county for and against such proposed amendment or measure.

B. The certified permanent copy of the official canvass for all offices and ballot measures, except offices and ballot measures in a city or town election and nonpartisan election returns, shall be mailed immediately to the secretary of state who shall maintain and preserve it as a permanent public record.

C. The board of supervisors shall MAIL, THEN deliver ELECTRONICALLY a copy of the official canvass for all offices and ballot measures in the primary and general elections to the secretary of state in a uniform electronic computer media format that shall be agreed on between the secretary of state and all county election officials. The uniform format shall be designed to facilitate the computer analysis of election results for offices and ballot measures that are statewide or are common to more than one county. THE ELECTRONIC COPY OF THE OFFICIAL CANVASS FROM THE

1 BOARD OF SUPERVISORS IS SUFFICIENT FOR THE SECRETARY OF STATE TO CONDUCT
2 AND ISSUE THE STATEWIDE CANVASS.

3 D. The certified permanent copy of the official canvass for all
4 offices and ballot measures in a city or town election shall be filed with
5 the appropriate city or town clerk, or in a special district election with
6 the clerk of the board of supervisors, who shall maintain and preserve it
7 as a permanent public record.

8 Sec. 7. Section 16-648, Arizona Revised Statutes, is amended to
9 read:

10 16-648. Canvass for state offices, amendments and measures

11 A. On the fourth ~~Monday~~ CALENDAR DAY AFTER THE LAST DATE FOR THE
12 COUNTY CANVASSES TO BE COMPLETED AS PRESCRIBED BY 16-642 following a
13 general election, the secretary of state, in the presence of the governor
14 and the attorney general, shall canvass all offices for which the nominees
15 filed nominating petitions and papers with the secretary of state pursuant
16 to section 16-311, subsection E.

17 B. The secretary of state, in the presence of the governor and the
18 chief justice of the supreme court, shall canvass all proposed
19 constitutional amendments and initiated or referred measures, as shown by
20 the certified copies of official canvass received from the several
21 counties, and forthwith certify the result to the governor.

22 ~~C. If the official canvass of any county has not been received on~~
23 ~~the fourth Monday following the general election, the canvass shall be~~
24 ~~postponed from day to day, not to exceed thirty days from the date of the~~
25 ~~election, until canvasses from all counties are received.~~

26 Sec. 8. Section 16-661, Arizona Revised Statutes, is amended to
27 read:

28 16-661. Automatic recount; requirements

29 A. A recount of the vote is required when the canvass of returns in
30 a primary or general election shows that the margin between the two
31 candidates receiving the greatest number of votes for a particular office,
32 or between the number of votes cast for and against initiated or referred
33 measures or proposals to amend the Constitution of Arizona, is less than
34 or equal to ~~one-half~~ TWO-TENTHS of one percent of the number of votes cast
35 for both such candidates or on such measures or proposals.

36 B. Subsection A of this section does not apply to elections for
37 precinct committeemen, school district governing boards, community college
38 district governing boards, fire district boards or fire district chiefs or
39 secretary-treasurers or boards of other special districts.

40 Sec. 9. Section 16-662, Arizona Revised Statutes, is amended to
41 read:

42 16-662. Certification to superior court of facts requiring
43 recount

44 When the ~~canvass shows~~ COUNTY CANVASSES SHOW that a recount is
45 required, the secretary of state WITHIN TWENTY-FOUR HOURS AFTER THE LAST

COUNTY CANVASS OR THE LAST DAY FOR COUNTY CANVASSES PRESCRIBED BY SECTION 16-642, WHICHEVER IS EARLIER, shall, in the case of an office to be filled by electors of the entire state, a congressional district, a legislative district or a subdivision of the state greater than a county, initiated or referred measures or proposals to amend the constitution, certify the facts requiring the recount to the superior court in Maricopa county. In the case of an office to be filled by the electors of a county or subdivision of a county or precinct, the board of supervisors of such county or in the case of an office to be filled by the electors of a city or town, the city or town council of that city or town shall certify the facts requiring a recount to the superior court in the county in which the canvass was conducted.

Sec. 10. Section 16-663, Arizona Revised Statutes, is amended to read:

16-663. Recount of votes; method

A. The superior court to which the facts requiring a recount are certified shall ~~forthwith~~ PROMPTLY make and enter an order requiring a recount of the votes cast for such office, measure or proposal. The recount shall be conducted in accordance with the laws pertaining to contests of elections.

B. ~~When the court orders~~ A COURT-ORDERED recount of votes ~~which~~ THAT were cast and tabulated on electronic voting equipment, such recount shall be pursuant to section 16-664. ~~On completion of~~ WHILE the recount IS BEING CONDUCTED, and for legislative, statewide and federal candidate races only, the county ~~chairmen~~ CHAIRPERSONS of the political parties entitled to continued representation on the ballot or the ~~chairman's~~ CHAIRPERSON'S designee shall select at random without the use of a computer ~~five per cent~~ TWO PERCENT of the precincts for the recounted race for a hand count, and if the results of that hand count when compared to the electronic tabulation of that same race are less than the designated margins calculated pursuant to section 16-602, the recount is complete and the electronic tabulation is the official result. If the hand count results in a difference that is equal to or greater than the designated margin for that race, the ~~procedure~~ PROCEDURES established in section 16-602, subsections C, D, E and F applies.

Sec. 11. Section 16-664, Arizona Revised Statutes, is amended to read:

16-664. Recount of votes by automatic tabulating system

A. In the event of a court-ordered recount of votes that were cast and tabulated on electronic voting equipment for a state primary, state general or state special election, the secretary of state shall order the ballots recounted on an automatic tabulating system to be furnished and programmed under the supervision of the secretary of state. In the event of a court-ordered recount for elections other than for the office of

1 supervisor, the secretary of state may designate the county board of
2 supervisors to perform the duties assigned to the secretary of state.

3 B. If the office of secretary of state is contested, the governor
4 shall order the ballots recounted on an automatic tabulating system to be
5 furnished and programmed under the supervision of the governor.

6 C. The programs to be used in the recount of votes pursuant to this
7 section shall differ from the programs prescribed by section 16-445 and
8 used in the initial tabulation of the votes.

9 D. THE COUNTY RECORDER OR COUNTY OFFICER IN CHARGE OF ELECTIONS MAY
10 CONDUCT THE LOGIC AND ACCURACY TESTING ON THE AUTOMATED TABULATING SYSTEM
11 TO BE USED IN THE RECOUNT OF VOTES, AND SHALL DO SO WITHIN FORTY-EIGHT
12 HOURS AFTER THE COURT ORDERS A RECOUNT.

13 E. IF THE SECRETARY OF STATE HAS SUFFICIENT RESOURCES TO CONDUCT
14 LOGIC AND ACCURACY TESTING ON THE AUTOMATED TABULATING SYSTEM TO BE USED
15 IN THE RECOUNT OF VOTES, THE SECRETARY OF STATE SHALL NOTIFY THE COUNTY
16 RECORDER OR COUNTY OFFICER IN CHARGE OF ELECTIONS THAT THE SECRETARY OF
17 STATE WILL CONDUCT THE LOGIC AND ACCURACY TESTING. IF THE SECRETARY OF
18 STATE NOTIFIES THE COUNTY RECORDER OR COUNTY OFFICER IN CHARGE OF
19 ELECTIONS THAT THE SECRETARY OF STATE WILL CONDUCT THE LOGIC AND ACCURACY
20 TESTING, THE SECRETARY OF STATE SHALL COMPLETE THE LOGIC AND ACCURACY
21 TESTING WITHIN FORTY-EIGHT HOURS AFTER THE COURT ORDERS A RECOUNT.

22 Sec. 12. Emergency

23 This act is an emergency measure that is necessary to preserve the
24 public peace, health or safety and is operative immediately as provided by
25 law.