

House Engrossed

audits; precincts; voting centers

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HOUSE BILL 2046

AN ACT

AMENDING SECTION 16-602, 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 16-602, Arizona Revised Statutes, is amended to
3 read:

4 **16-602. Vote tabulators; designated margin; hand counts; vote**
5 **count verification committee**

6 A. For any primary, special or general election in which the votes
7 are cast on an electronic voting machine or tabulator, the election judge
8 shall compare the number of votes cast as indicated on the machine or
9 tabulator with the number of votes cast as indicated on the poll list and
10 the number of provisional ballots cast and that information shall be noted
11 in a written report prepared and submitted to the officer in charge of
12 elections along with other tally reports.

13 B. For each countywide primary, special, general and presidential
14 preference election, the county officer in charge of the election shall
15 conduct a hand count at one or more secure facilities. The hand count
16 shall be conducted as prescribed by this section and in accordance with
17 hand count procedures established by the secretary of state in the
18 official instructions and procedures manual adopted pursuant to section
19 16-452. The hand count is not subject to the live video requirements of
20 section 16-621, subsection D, but the party representatives who are
21 observing the hand count may bring their own video cameras in order to
22 record the hand count. The recording shall not interfere with the conduct
23 of the hand count and the officer in charge of the election may prohibit
24 from recording or remove from the facility persons who are taking actions
25 to disrupt the count. The sole act of recording the hand count does not
26 constitute sufficient grounds for the officer in charge of the election to
27 prohibit observers from recording or to remove them from the facility.
28 The hand count shall be conducted in the following order:

29 1. At least two percent of the precincts **OR VOTING CENTERS** in that
30 county, or two precincts **OR VOTING CENTERS**, whichever is greater, shall be
31 selected at random from a pool consisting of every precinct **OR VOTING**
32 **CENTER** in that county. The county political party chairperson for each
33 political party that is entitled to continued representation on the state
34 ballot or the chairperson's designee shall conduct the selection of the
35 precincts **OR VOTING CENTERS** to be hand counted. The precincts **OR VOTING**
36 **CENTERS** shall be selected by lot without the use of a computer, and the
37 order of selection by the county political party chairpersons shall also
38 be by lot. The selection of the precincts **OR VOTING CENTERS** shall not
39 begin until all ballots voted in the precinct polling places **OR VOTING**
40 **CENTERS, AS APPLICABLE**, have been delivered to the central counting
41 center. The unofficial vote totals from all precincts **OR VOTING CENTERS**
42 shall be made public before selecting the precincts **OR VOTING CENTERS** to
43 be hand counted. **THE HAND COUNT AUDIT SHALL BEGIN IMMEDIATELY AFTER THE**
44 **PRECINCTS OR VOTING CENTERS ARE SELECTED.** Only the ballots cast in the

1 polling places **OR VOTING CENTERS, AS APPLICABLE**, and ballots from direct
2 recording electronic machines shall be included in the hand counts
3 conducted pursuant to this section. Provisional ballots, conditional
4 provisional ballots and write-in votes shall not be included in the hand
5 counts and the early ballots shall be grouped separately by the officer in
6 charge of elections for purposes of a separate manual audit pursuant to
7 subsection F of this section.

8 2. The races to be counted on the ballots from the precincts that
9 were selected pursuant to paragraph 1 of this subsection for each primary,
10 special and general election shall include up to five contested races.
11 After the county recorder or other officer in charge of elections
12 separates the primary ballots by political party, the races to be counted
13 shall be determined by selecting by lot without the use of a computer from
14 those ballots as follows:

15 (a) For a general election, one statewide ballot measure, unless
16 there are no measures on the ballot.

17 (b) One contested statewide race for statewide office.

18 (c) One contested race for federal office, either United States
19 senate or United States house of representatives. If the United States
20 house of representatives race is selected, the names of the candidates may
21 vary among the sampled precincts.

22 (d) One contested race for state legislative office, either state
23 house of representatives or state senate. In either case, the names of
24 the candidates may vary among the sampled precincts.

25 (e) If there are fewer than four contested races resulting from the
26 selections made pursuant to subdivisions (a) through (d) of this paragraph
27 and if there are additional contested federal, statewide or legislative
28 races or ballot measures, additional contested races shall be selected by
29 lot not using a computer until four races have been selected or until no
30 additional contested federal, statewide or legislative races or ballot
31 measures are available for selection.

32 (f) If there are no contested races as prescribed by this
33 paragraph, a hand count shall not be conducted for that precinct for that
34 election.

35 3. For the presidential preference election, select by lot two
36 percent of the polling places designated and used pursuant to section
37 16-248 **OR VOTING CENTERS, AS APPLICABLE**, and perform the hand count of
38 those ballots.

39 4. For the purposes of this section, a write-in candidacy in a race
40 does not constitute a contested race.

41 5. In elections in which there are candidates for president, the
42 presidential race shall be added to the four categories of hand counted
43 races.

1 6. Each county chairperson of a political party that is entitled to
2 continued representation on the state ballot or the chairperson's designee
3 shall select by lot the individual races to be hand counted pursuant to
4 this section.

5 7. Political party designees who are selected pursuant to this
6 paragraph shall perform the hand count under the supervision of the county
7 officer in charge of elections. The county officer in charge of elections
8 shall provide compensation for those selected to perform the hand count,
9 not to include travel, meal or lodging expenses. The hand count shall not
10 proceed unless the political parties provide the officer in charge of
11 elections in writing a sufficient number of persons pursuant to this
12 paragraph by 5:00 p.m. on the Thursday preceding the election and a
13 sufficient number of persons prescribed by this paragraph arrive to
14 perform the hand count. Political party designees shall be selected to
15 perform the hand count as follows:

16 (a) The county chairperson of each political party shall designate
17 and provide to both the county officer in charge of elections and the
18 state party chairperson the number of hand count board members as
19 designated by the county officer in charge of elections. If the county
20 party chairperson fails to designate a sufficient number of hand count
21 board workers, the state party chairperson shall designate qualified
22 electors to be hand count board workers. If the county PARTY chairpersons
23 and the state party chairpersons fail to designate a sufficient number of
24 hand count board workers, the highest-ranking official holding a statewide
25 office of each political party shall designate qualified electors to be
26 hand count board workers. For the purposes of this subdivision, the
27 ranking of officials holding statewide office shall be governor, secretary
28 of state, attorney general, state treasurer, superintendent of public
29 instruction, corporation commissioners in order of seniority, mine
30 inspector, senate majority and minority leaders and house of
31 representatives majority and minority leaders.

32 (b) The political parties shall provide to the county officer in
33 charge of elections in writing the names of those persons intending to
34 participate in the hand count at the audited precincts not later than
35 5:00 p.m. on the second Tuesday preceding the election.

36 (c) If the total number of hand count board workers provided by all
37 parties is less than the number designated by the county officer in charge
38 of elections, the county officer in charge of elections shall notify the
39 parties of the shortage not later than 9:00 a.m. on the second Wednesday
40 preceding the election and the political parties have until 9:00 a.m. on
41 the second Thursday preceding the election to provide the county officer
42 in charge of elections with an additional list of qualified electors who
43 are willing to participate in the hand count.

1 (d) The county officer in charge of elections shall distribute the
2 list provided pursuant to subdivision (c) of this paragraph to the county
3 chairperson and state chairperson of each recognized political party in
4 the county and state not later than 5:00 p.m. on the second Friday
5 preceding the election.

6 (e) The selection of persons to perform the hand count shall ensure
7 that not more than seventy-five percent of the persons conducting the hand
8 count are members of the same political party.

9 (f) The county recorder or county officer in charge of elections
10 may prohibit persons from participating in the hand count if the persons
11 are taking actions to disrupt the count or are unable to perform the
12 duties as assigned.

13 8. If a political party is not represented by a designated
14 chairperson within a county, the state chairperson for that political
15 party, or a person designated by the state chairperson, may perform the
16 actions required by the county chairperson as specified in this section.

17 C. If the randomly selected races result in a difference in any
18 race that is less than the designated margin when compared to the
19 electronic tabulation of those same ballots, the results of the electronic
20 tabulation constitute the official count for that race. If the randomly
21 selected races result in a difference in any race that is equal to or
22 greater than the designated margin when compared to the electronic
23 tabulation of those same ballots, a second hand count of those same
24 ballots and races shall be performed. If the second hand count results in
25 a difference in any race that is less than the designated margin when
26 compared to the electronic tabulation for those same ballots, the
27 electronic tabulation constitutes the official count for that race. If
28 the second hand count results in a difference in any race that is equal to
29 or greater than the designated margin when compared to the electronic
30 tabulation for those same ballots, the hand count shall be expanded to
31 include a total of twice the original number of randomly selected
32 precincts. Those additional precincts shall be selected by lot without
33 the use of a computer.

34 D. In any expanded count of randomly selected precincts, if the
35 randomly selected precinct hand counts result in a difference in any race
36 that is equal to or greater than the designated margin when compared to
37 the electronic tabulation of those same ballots, the final hand count
38 shall be extended to include the entire jurisdiction for that race. If
39 the jurisdictional boundary for that race would include any portion of
40 more than one county, the final hand count shall not be extended into the
41 precincts of that race that are outside of the county that is conducting
42 the expanded hand count. If the expanded hand count results in a
43 difference in that race that is less than the designated margin when

1 compared to the electronic tabulation of those same ballots, the
2 electronic tabulation constitutes the official count for that race.

3 E. If a final hand count is performed for an entire jurisdiction
4 for a race, the final hand count shall be repeated for that race until a
5 hand count for that race for the entire jurisdiction results in a count
6 that is identical to one other hand count for that race for the entire
7 jurisdiction and that hand count constitutes the official count for that
8 race.

9 F. After the electronic tabulation of early ballots and at one or
10 more times selected by the chairperson of the political parties entitled
11 to continued representation on the ballot or the chairperson's designee,
12 the chairpersons or the chairpersons' designees shall randomly select one
13 or more batches of early ballots ~~that have been tabulated~~ to include at
14 least one batch from each machine used for tabulating early ballots and
15 those ballots shall be securely sequestered by the county recorder or
16 officer in charge of elections along with their unofficial tally reports
17 for a postelection manual audit. The chairpersons or the chairpersons'
18 designees shall randomly select from those sequestered early ballots a
19 number equal to one percent of the total number of early ballots cast or
20 five thousand early ballots, whichever is less. From those randomly
21 selected early ballots, the county officer in charge of elections shall
22 conduct a manual audit of the same races that are being hand counted
23 pursuant to subsection B of this section. If the manual audit of the
24 early ballots results in a difference in any race that is equal to or
25 greater than the designated margin when compared to the electronically
26 tabulated results for those same early ballots, the manual audit shall be
27 repeated for those same early ballots. If the second manual audit results
28 in a difference in that race that is equal to or greater than the
29 designated margin when compared to the electronically tabulated results
30 for those same early ballots, the manual audit shall be expanded only for
31 that race to a number of additional early ballots equal to one percent of
32 the total early ballots cast or an additional five thousand ballots,
33 whichever is less, to be randomly selected from the batch or batches of
34 sequestered early ballots. If the expanded early ballot manual audit
35 results in a difference for that race that is equal to or greater than the
36 designated margin when compared to any of the earlier manual counts for
37 that race, the manual counts shall be repeated for that race until a
38 manual count results in a difference in that race that is less than the
39 designated margin. If at any point in the manual audit of early ballots
40 the difference between any manual count of early ballots is less than the
41 designated margin when compared to the electronic tabulation of those
42 ballots, the electronic tabulation shall be included in the canvass and no
43 further manual audit of the early ballots shall be conducted.

1 G. During any hand count of early ballots, the county officer in
2 charge of elections and election board workers shall attempt to determine
3 the intent of the voter in casting the ballot.

4 H. Notwithstanding any other law, the county officer in charge of
5 elections shall retain custody of the ballots for purposes of performing
6 any required hand counts and the officer shall provide for security for
7 those ballots.

8 I. The hand counts prescribed by this section shall begin within
9 twenty-four hours after the closing of the polls ~~and~~ OR, FOR THE HAND
10 COUNTS OF EARLY BALLOTS, WITHIN TWENTY-FOUR HOURS AFTER THE COMPLETION OF
11 TABULATION AND SHALL BEGIN IMMEDIATELY AFTER THE PRECINCTS OR BATCHES TO
12 BE HAND COUNTED, AS APPLICABLE, ARE SELECTED. THE HAND COUNTS shall be
13 completed before the canvassing of the election for that county. The
14 county shall make available on the county's website the results of those
15 hand counts and shall provide the results to the secretary of state, who
16 shall make those results publicly available on the secretary of state's
17 website.

18 J. For any county in which a hand count has been expanded to all
19 precincts in the jurisdiction, the secretary of state shall make available
20 the escrowed source code for that county to the superior court. The
21 superior court shall appoint a special master to review the computer
22 software. The special master shall have expertise in software
23 engineering, shall not be affiliated with an election software vendor nor
24 with a candidate, shall sign and be bound by a nondisclosure agreement
25 regarding the source code itself and shall issue a public report to the
26 court and to the secretary of state regarding the special master's
27 findings on the reasons for the discrepancies. The secretary of state
28 shall consider the reports for purposes of reviewing the certification of
29 that equipment and software for use in this state.

30 K. The vote count verification committee is established in the
31 office of the secretary of state and all of the following apply:

32 1. At least thirty days before the 2006 primary election, the
33 secretary of state shall appoint seven persons to the committee, not more
34 than three of whom are members of the same political party.

35 2. Members of the committee shall have expertise in any two or more
36 of the areas of advanced mathematics, statistics, random selection
37 methods, systems operations or voting systems.

38 3. A person is not eligible to be a committee member if that person
39 has been affiliated with or received any income in the preceding five
40 years from any person or entity that provides election equipment or
41 services in this state.

42 4. The vote count verification committee shall meet and establish
43 one or more designated margins to be used in reviewing the hand counting
44 of votes as required pursuant to this section. The committee shall review

1 and consider revising the designated margins every two years for use in
2 the applicable elections. The committee shall provide the designated
3 margins to the secretary of state at least ten days before the primary
4 election and at least ten days before the general election, and the
5 secretary of state shall make that information publicly available on the
6 secretary of state's website.

7 5. Members of the vote count verification committee are not
8 eligible to receive compensation but are eligible for reimbursement of
9 expenses pursuant to title 38, chapter 4, article 2. The committee is a
10 public body and its meetings are subject to title 38, chapter 3, article
11 3.1 and its reports and records are subject to title 39, chapter 1.