

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 144

# SENATE BILL 1342

AN ACT

AMENDING SECTIONS 16-407, 16-442, 16-446, 16-449 AND 16-1004, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS AND ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-407, Arizona Revised Statutes, is amended to  
3 read:

4 16-407. Election officers; qualifications; certificates;  
5 certification programs; advisory committee; plan;  
6 exemption; training fund

7 A. Except as provided in subsection H, no person may perform the  
8 duties or exercise the authority of an election officer or of the clerk of  
9 the board of supervisors or the county recorder in performance of election  
10 duties in or on behalf of any county unless he THE PERSON is the holder of an  
11 election officer's certificate issued by the secretary of state before  
12 January 1 of each general election year.

13 B. The secretary of state shall provide for the examination of  
14 applicants for election officer certificates. The secretary of state may not  
15 issue a certificate to a person who has not demonstrated to the satisfaction  
16 of the secretary of state that he THE PERSON is competent to perform the work  
17 of an election officer or of the clerk of the board of supervisors or the  
18 county recorder in the performance of election duties.

19 C. The secretary of state shall provide for election officer  
20 certification programs of which successful completion by a person attests to  
21 the attendance at, participation in and completion of a course of instruction  
22 in the technical, legal and administrative aspects of conducting elections  
23 within this state.

24 D. An election officer education, training and certification advisory  
25 committee is established consisting of the following members:

- 26 1. An assistant attorney general appointed by the attorney general.  
27 2. Three election officers, deputy county election officers or county  
28 recorders appointed by the secretary of state.  
29 3. A training coordinator in the office of the secretary of state  
30 appointed by the secretary of state.

31 E. The terms of members appointed pursuant to subsection D, paragraphs  
32 1 and 2 are one year. The training coordinator appointed pursuant to  
33 subsection D, paragraph 3 serves at the pleasure of the secretary of  
34 state. The members of the advisory committee shall choose a chairman from  
35 among themselves. The advisory committee shall meet at least semiannually at  
36 a time and place set by the chairman. Additional meetings shall be held on  
37 the call of the chairman or at the request of two or more members.

38 F. The advisory committee shall evaluate:

- 39 1. The curriculum proposed by the secretary of state for the election  
40 officer certification program.  
41 2. The procedures proposed by the secretary of state for evaluation of  
42 participants.  
43 3. The form and content of all examinations given in the election  
44 officer certification program.

1 G. On or before December 31 of each year of a general election, the  
2 secretary of state shall submit an election officer education, training and  
3 certification plan to the advisory committee and to the president of the  
4 senate and the speaker of the house of representatives. The plan shall  
5 outline the achievements and problems of the previous two year period and  
6 specify the expected education, training and certification activities of the  
7 coming two year period.

8 H. Subsection A does not apply to elected officials, clerical and  
9 secretarial personnel, counting center personnel, precinct election BOARD and  
10 tally board members and election officials in cities or towns.

11 I. FOR CITY AND TOWN EMPLOYEES WHO WORK ON ELECTIONS, IF THE CITY OR  
12 TOWN CHOOSES TO ENROLL THE CITY OR TOWN EMPLOYEES IN THE CERTIFICATION  
13 PROGRAM PRESCRIBED BY THIS SECTION, CITIES AND TOWNS SHALL REIMBURSE THE  
14 SECRETARY OF STATE FOR THE COSTS OF CONDUCTING THE TRAINING. AN ELECTION  
15 TRAINING FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED PURSUANT TO THIS  
16 SUBSECTION. THE SECRETARY OF STATE SHALL ADMINISTER THE FUND. MONIES IN THE  
17 FUND ARE CONTINUOUSLY APPROPRIATED AND THE SECRETARY OF STATE SHALL USE  
18 MONIES IN THE FUND TO PAY THE COSTS OF TRAINING OFFICIALS FROM CITIES AND  
19 TOWNS PURSUANT TO THIS SUBSECTION.

20 Sec. 2. Section 16-442, Arizona Revised Statutes, is amended to read:  
21 16-442. Committee approval; adoption of vote tabulating  
22 equipment; experimental use; emergency

23 A. The secretary of state shall appoint a committee of three persons,  
24 to consist of a member of the engineering college at one of the universities,  
25 a member of the state bar of Arizona and one person familiar with voting  
26 processes in the state, no more than two of whom shall be of the same  
27 political party, who shall investigate and test the various types of vote  
28 recording or tabulating machines or devices which may be used under ~~the~~  
29 ~~provisions of~~ this article. They shall submit their recommendations to the  
30 secretary of state who shall make final adoption of the type or types, make  
31 or makes, model or models to be certified for use in this state. The  
32 committee shall serve without compensation.

33 B. On completion of acquisition of machines or devices that comply  
34 with the help America vote act of 2002 (P.L. 107-252), machines or devices  
35 used at any election for federal, state or county offices may only be  
36 certified for use in this state and may only be used in this state if they  
37 comply with the help America vote act of 2002 and if those machines or  
38 devices have been tested and approved by a laboratory that is accredited  
39 pursuant to the help America vote act of 2002.

40 C. After consultation with the committee prescribed by subsection A,  
41 the secretary of state shall adopt standards that specify the criteria for  
42 loss of certification for equipment used at any election for federal, state  
43 or county offices and that was previously certified for use in this  
44 state. On loss of certification, machines or devices used at any election

1 may not be used for any election for federal, state or county offices in this  
2 state unless recertified for use in this state.

3 D. THE SECRETARY OF STATE MAY REVOKE THE CERTIFICATION OF ANY VOTING  
4 SYSTEM OR DEVICE FOR USE IN A FEDERAL, STATE OR COUNTY ELECTION IN THIS STATE  
5 OR MAY PROHIBIT FOR UP TO FIVE YEARS THE PURCHASE, LEASE OR USE OF ANY VOTING  
6 SYSTEM OR DEVICE LEASED, INSTALLED OR USED BY A PERSON OR FIRM IN CONNECTION  
7 WITH A FEDERAL, STATE OR COUNTY ELECTION IN THIS STATE, OR BOTH, IF EITHER OF  
8 THE FOLLOWING OCCURS:

9 1. THE PERSON OR FIRM INSTALLS, USES OR PERMITS THE USE OF A VOTING  
10 SYSTEM OR DEVICE THAT IS NOT CERTIFIED FOR USE OR APPROVED FOR EXPERIMENTAL  
11 USE IN THIS STATE PURSUANT TO THIS SECTION.

12 2. THE PERSON OR FIRM USES OR INCLUDES HARDWARE, FIRMWARE OR SOFTWARE  
13 IN A VERSION THAT IS NOT CERTIFIED FOR USE OR APPROVED FOR EXPERIMENTAL USE  
14 PURSUANT TO THIS SECTION IN A CERTIFIED VOTING SYSTEM OR DEVICE.

15 ~~D.~~ E. The governing body of a city or town or the board of directors  
16 of an agricultural improvement district may adopt for use in elections any  
17 kind of electronic voting system or vote tabulating device approved by the  
18 secretary of state, and thereupon the voting or marking device and vote  
19 tabulating equipment may be used at any or all elections for voting,  
20 recording and counting votes cast at election.

21 ~~E.~~ F. THE SECRETARY OF STATE OR the governing body may provide for  
22 the experimental use of ~~vote tabulating equipment~~ A VOTING SYSTEM OR DEVICE  
23 without a final adoption thereof, and its use at the election is as valid as  
24 if the machines had been permanently adopted.

25 G. AFTER CONSULTATION WITH THE COMMITTEE PRESCRIBED BY SUBSECTION A,  
26 THE SECRETARY OF STATE MAY APPROVE FOR EMERGENCY USE AN UPGRADE OR  
27 MODIFICATION TO A VOTING SYSTEM OR DEVICE THAT IS CERTIFIED FOR USE IN THIS  
28 STATE IF THE GOVERNING BODY ESTABLISHES IN AN OPEN MEETING THAT THE ELECTION  
29 CANNOT BE CONDUCTED WITHOUT THE EMERGENCY CERTIFICATION. ANY SUCH EMERGENCY  
30 CERTIFICATION SHALL BE LIMITED TO NO MORE THAN SIX MONTHS. AT THE CONCLUSION  
31 OF THE CERTIFICATION PERIOD THE VOTING SYSTEM OR DEVICE SHALL BE DECERTIFIED  
32 AND UNAVAILABLE FOR FUTURE USE UNLESS CERTIFIED IN ACCORDANCE WITH THIS  
33 SECTION.

34 Sec. 3. Section 16-446, Arizona Revised Statutes, is amended to read:

35 16-446. Specifications of electronic voting system

36 A. An electronic voting system consisting of a voting or marking  
37 device in combination with vote tabulating equipment shall provide facilities  
38 for voting for candidates at both primary and general elections.

39 B. An electronic voting system shall:

40 1. Provide for voting in secrecy when used with voting booths.

41 2. Permit each elector to vote at any election for any person for any  
42 office whether or not nominated as a candidate, to vote for as many persons  
43 for an office as he is entitled to vote for, to vote for or against any  
44 question upon which he is entitled to vote, and the vote tabulating equipment  
45 shall reject choices recorded on his ballot card or paper ballot if the

1 number of choices exceeds the number which he is entitled to vote for the  
2 office or on the measure.

3 3. Prevent the elector from voting for the same person more than once  
4 for the same office.

5 4. Be suitably designed for the purpose used, of durable construction,  
6 and may be used safely, efficiently and accurately in the conduct of  
7 elections and counting ballots.

8 5. Be provided with means for sealing the voting or marking device  
9 against any further voting after the close of the polls and the last voter  
10 has voted.

11 6. When properly operated, record correctly and count accurately every  
12 vote cast.

13 7. PROVIDE A PAPER DOCUMENT OR BALLOT THAT VISUALLY INDICATES THE  
14 VOTER'S SELECTIONS.

15 Sec. 4. Section 16-449, Arizona Revised Statutes, is amended to read:  
16 16-449. Required test of equipment and programs; notice;

17 procedures manual

18 A. Within ~~seven days prior to~~ THE PERIOD OF TIME BEFORE the election  
19 day PRESCRIBED BY THE SECRETARY OF STATE IN THE INSTRUCTIONS AND PROCEDURES  
20 MANUAL ADOPTED PURSUANT TO SECTION 16-452, the board of supervisors or other  
21 election officer in charge, or for an election involving state or federal  
22 candidates, the secretary of state, shall have the automatic tabulating  
23 equipment and programs tested to ascertain that the equipment and programs  
24 will correctly count the votes cast for all offices and on all measures.  
25 Public notice of the time and place of the test shall be given at least  
26 forty-eight hours prior thereto by publication once in one or more daily or  
27 weekly newspapers published in the town, city or village using such  
28 equipment, if a newspaper is published therein, otherwise in a newspaper of  
29 general circulation therein. The test shall be observed by at least two  
30 election inspectors, who shall not be of the same political party, and shall  
31 be open to representatives of the political parties, candidates, the press  
32 and the public. The test shall be conducted by processing a preaudited group  
33 of ballots so punched or marked as to record a predetermined number of valid  
34 votes for each candidate and on each measure and shall include for each  
35 office one or more ballots which have votes in excess of the number allowed  
36 by law in order to test the ability of the automatic tabulating equipment and  
37 programs to reject such votes. If any error is detected, the cause therefor  
38 shall be ascertained and corrected and an errorless count shall be made  
39 before the automatic tabulating equipment and programs are approved. A copy  
40 of a revised program shall be filed with the secretary of state within  
41 forty-eight hours after the revision is made. If the error was created by  
42 automatic tabulating equipment malfunction, a report shall be filed with the  
43 secretary of state within forty-eight hours after the correction is made,  
44 stating the cause and the corrective action taken. The test shall be  
45 repeated immediately before the start of the official count of the ballots in

1 the same manner as set forth above. After the completion of the count, the  
2 programs used and the ballots shall be sealed, retained and disposed of as  
3 provided for paper ballots.

4 B. Electronic ballot tabulating systems shall be tested for logic and  
5 accuracy within seven days before their use for early balloting pursuant to  
6 the instructions and procedures manual for electronic voting systems that is  
7 adopted by the secretary of state as prescribed by section 16-452. The  
8 instructions and procedures manual shall include procedures for the handling  
9 of ballots, the electronic scanning of ballots and any other matters  
10 necessary to ensure the maximum degree of correctness, impartiality and  
11 uniformity in the administration of an electronic ballot tabulating system.

12 Sec. 5. Section 16-1004, Arizona Revised Statutes, is amended to read:  
13 16-1004. Interference with or corruption of election officer;

14 interference with machine or device; classification

15 A. A person who at any election knowingly interferes in any manner  
16 with an officer of such election in the discharge of ~~his~~ THE OFFICER'S duty,  
17 or who induces an officer of an election or officer whose duty it is to  
18 ascertain, announce or declare the result of such election, to violate or  
19 refuse to comply with ~~his~~ THE OFFICER'S duty or any law regulating the  
20 election, is guilty of a class 5 felony.

21 B. A PERSON WHO KNOWINGLY MODIFIES THE SOFTWARE, HARDWARE OR SOURCE  
22 CODE FOR VOTING EQUIPMENT WITHOUT RECEIVING APPROVAL OR CERTIFICATION  
23 PURSUANT TO SECTION 16-442 IS GUILTY OF A CLASS 5 FELONY.

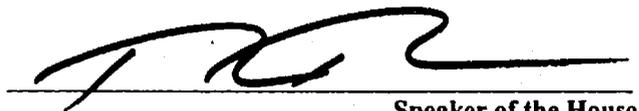
APPROVED BY THE GOVERNOR APRIL 19, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2005.

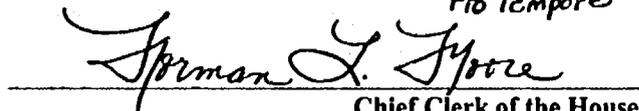
Passed the House April 12, 2005

by the following vote: 42 Ayes,

17 Nays, 1 Not Voting



Speaker of the House  
Pro Tempore



Chief Clerk of the House

Passed the Senate March 10, 2005

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13<sup>th</sup> day of April, 2005

at 12:46 o'clock P. M.

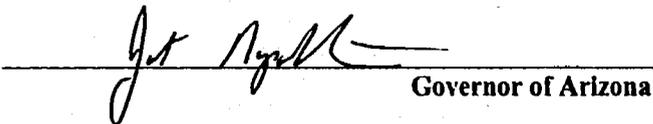


Secretary to the Governor

Approved this 19 day of

April, 2005

at 9<sup>15</sup> o'clock A. M.



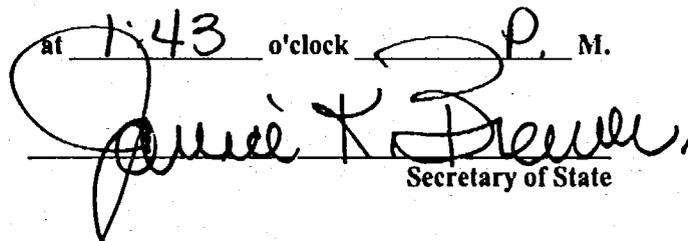
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19 day of April, 2005

at 1:43 o'clock P. M.



Secretary of State

S.B. 1342