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CHAPTER 149

SENATE BILL 1074

AN ACT

AMENDING SECTIONS 15-424, 15-493, 15-1442, 16-168, 16-201, 16-204, 16-206, 16-245, 16-312, 16-461, 16-510, 16-542, 16-558.01, 16-602 AND 19-201, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 15-424, Arizona Revised Statutes, is amended to read:

15-424. Election of governing board members; terms; statement of contributions and expenditures

A. A regular election shall be held for each school district at the time and place, and in the manner, of general elections as provided in title 16.

B. Except as provided in subsection C of this section and sections 15-429 and 15-430, the term of office for each member shall be four years from January 1 next following ~~his~~ THE MEMBER'S election.

C. At the first general election held for a newly formed district, three members shall be elected. The candidate receiving the highest number of votes shall be elected to a four year term, and the candidates having the second and third highest number of votes shall be elected to two year terms. A district increasing its governing board to five members shall ELECT at the next general election ~~elect~~ members in the following manner:

1. If one of the previous three offices is to be filled, the three candidates receiving the highest, the second highest and the third highest number of votes shall be elected to four year terms.

2. If two of the previous three offices are to be filled, the candidates receiving the highest, the second highest and the third highest number of votes shall be elected to four year terms. The candidate receiving the fourth highest number of votes shall be elected to a two year term. Thereafter all such offices shall have four year terms.

D. If only one person files or no person files a nominating petition or nomination paper for a write-in candidate for an election to fill a district office, the board of supervisors no earlier than seventy-five days before the election may cancel the election for the position and appoint the person who filed the nominating petition OR NOMINATION PAPER to fill the position. If no person files a nominating petition OR NOMINATION PAPER for an election to fill a district office, the board of supervisors no earlier than seventy-five days before the election may cancel the election for that office and that office is deemed vacant and shall be filled as provided in section 15-302. A person who is appointed pursuant to this subsection is fully vested with the powers and duties of the office as if elected to that office.

E. If two or more candidates receive an equal number of votes for the same office, and a higher number than any other candidate for that office, whether upon the tally by the school election board or canvass of returns by the board of supervisors, or upon recount by a court, the officer or board whose duty it is to declare the result shall determine by lot and in the presence of the candidates which candidate shall be declared elected.

F. Position of the names of candidates for each office shall be rotated so that each candidate occupies each position on the ballot an equal number of times, insofar as is possible, for each ballot style. For candidates seeking election to fill a vacancy on the governing board, the ballot shall be designated as provided in section 16-502.

G. This section does not require that a school election at which no member is to be elected be held on a general election day.

H. All candidates for the office of school district governing board member shall file with the county school superintendent a statement of contributions and expenditures as provided in section 16-913.

Sec. 2. Section 15-493, Arizona Revised Statutes, is amended to read:

15-493. Canvass of votes; certification of result

The official returns shall be delivered to the county board of supervisors or the appropriate county elections officer. Within ~~fourteen~~ THIRTY days ~~of~~ AFTER the election, the county board of supervisors or the county elections officer shall canvass the results of the election and shall file duplicate copies of the certificate of the result of the election with the clerk of the board of supervisors and with the governing board of the school district.

Sec. 3. Section 15-1442, Arizona Revised Statutes, is amended to read:

15-1442. Nominating petitions; election; returns; results; certificate of election; statement of contributions and expenditures

A. Candidates for the district board must file nominating petitions, conforming to ~~the provisions set forth in~~ section 16-314, with the appropriate county officer.

B. Members of the district board shall be elected at the time and place, and in the manner, of general elections as provided in title 16.

C. IF ONLY ONE PERSON FILES OR NO PERSON FILES A NOMINATING PETITION OR NOMINATION PAPER FOR A WRITE-IN CANDIDATE FOR AN ELECTION TO FILL A COMMUNITY COLLEGE BOARD OFFICE, THE COUNTY SCHOOL SUPERINTENDENT NO EARLIER THAN SEVENTY-FIVE DAYS BEFORE THE ELECTION MAY CANCEL THE ELECTION FOR THE POSITION AND APPOINT THE PERSON WHO FILED THE NOMINATING PETITION OR NOMINATION PAPER TO FILL THE POSITION. IF NO PERSON FILES A NOMINATING PETITION OR NOMINATION PAPER FOR AN ELECTION TO FILL A COMMUNITY COLLEGE BOARD OFFICE, THE COUNTY BOARD OF SUPERVISORS NO EARLIER THAN SEVENTY-FIVE DAYS BEFORE THE ELECTION MAY CANCEL THE ELECTION FOR THAT OFFICE AND THAT OFFICE IS DEEMED VACANT AND SHALL BE FILLED AS PROVIDED IN SECTION 15-1441. A PERSON WHO IS APPOINTED PURSUANT TO THIS SUBSECTION IS FULLY VESTED WITH THE POWERS AND DUTIES OF THE OFFICE AS IF ELECTED TO THAT OFFICE.

~~C.~~ D. The county school superintendent and the chairman of the board of supervisors shall meet on the seventh day following the election to canvass the returns in accordance with procedures for the canvass of returns in a general election. The county school superintendent shall declare the results of the election, declare elected the person receiving the highest

number of votes for each office to be filled and issue to ~~him~~ THAT PERSON a certificate of election.

~~D.~~ E. All candidates for the office of community college district governing board member shall file with the clerk of the board of supervisors a statement of contributions and expenditures as provided in section 16-913.

Sec. 4. Section 16-168, Arizona Revised Statutes, is amended to read:

16-168. Precinct registers; date of preparation; contents; copies; reports; statewide database; violation; classification

A. By the tenth day preceding the primary and general elections the county recorder shall prepare from the original registration forms or from electronic media at least four lists that are printed or typed on paper of all qualified electors in each precinct in the county, and the lists shall be the official precinct registers.

B. The official precinct registers for use at the polling place shall contain at least the names in full, party preference, date of registration and residence address of each qualified elector in the respective precincts. The names shall be in alphabetical order and, in a column to the left of the names, shall be numbered consecutively beginning with number 1 in each precinct register.

C. For the purposes of transmitting voter registration information as prescribed by this subsection, electronic media in counties with a population over five hundred thousand persons in the last decennial census shall be the principal media. A county or state chairman who is eligible to receive copies of precinct lists as prescribed by this subsection may request that the recorder provide a paper copy of the precinct lists. The county recorder, in addition to preparing the official precinct lists, shall provide a means for mechanically or electronically reproducing the precinct lists and unless otherwise agreed shall deliver within eight days after the close of registration for the primary and general elections, without charge, on the same day one electronic media copy of each precinct list within the county to the county chairman and one electronic media copy to the state chairman of each party that has at least four candidates other than presidential electors appearing on the ballot in that county at the current election. The county recorder shall also deliver, on request and without charge, one electronic media copy of the precinct list to the Arizona legislative council. The county recorder of a county with a population of five hundred thousand or fewer persons, on the same day precinct lists are delivered to county chairmen, shall deliver one electronic media copy of each precinct list within the county to the state chairman of each party that has at least four candidates other than presidential electors appearing on the ballot in this state at the current election. THE SECRETARY OF STATE SHALL PRESCRIBE THE MANNER, FORMAT AND TEMPLATE IN WHICH ALL COUNTY RECORDERS PROVIDE THIS DATA TO THE SECRETARY OF STATE TO ENSURE THAT THE SUBMISSIONS ARE UNIFORM FROM ALL

COUNTIES IN THIS STATE. The copies of the precinct lists shall be electronic media and shall include for each elector the following information:

1. Name in full and appropriate title.
2. Party preference.
3. Date of registration.
4. Residence address.
5. Mailing address, if different from residence address.
6. Zip code.
7. Telephone number if given.
8. Birth year.
9. Occupation if given.
10. Voting history for all elections in the prior four years and any other information regarding registered voters that the county recorder or city or town clerk maintains electronically and that is public information.
11. ALL DATA RELATING TO PERMANENT EARLY VOTERS AND NONPERMANENT EARLY VOTERS, INCLUDING BALLOT REQUESTS AND BALLOT RETURNS.

D. The names on the precinct lists shall be in alphabetical order and the precinct lists in their entirety, unless otherwise agreed, shall be delivered to each county chairman and each state chairman within ten business days of the close of each date for counting registered voters prescribed by subsection G of this section other than the primary and general election registered voter counts in the same format and media as prescribed by subsection C of this section. During the thirty-three days immediately preceding an election and on request from a county or state chairman, the county recorder shall provide AT NO COST a daily list of persons who have requested an early ballot and shall provide AT NO COST a weekly listing of persons who have returned their early ballots. The recorder shall provide the daily and weekly information through the ~~third day~~ FRIDAY preceding the election. ON REQUEST FROM A COUNTY CHAIRMAN OR STATE CHAIRMAN, THE COUNTY RECORDER OF A COUNTY WITH A POPULATION OF MORE THAN EIGHT HUNDRED THOUSAND PERSONS SHALL PROVIDE AT NO COST A DAILY LISTING OF PERSONS WHO HAVE RETURNED THEIR EARLY BALLOTS. THE DAILY LISTING SHALL BE PROVIDED MONDAYS THROUGH FRIDAYS, BEGINNING WITH THE FIRST MONDAY FOLLOWING THE START OF EARLY VOTING AND ENDING ON THE MONDAY BEFORE THE ELECTION.

E. Precinct registers and other lists and information derived from registration forms may be used only for purposes relating to a political or political party activity, a political campaign or an election, for revising election district boundaries or for any other purpose specifically authorized by law and may not be used for a commercial purpose as defined in section 39-121.03. The sale of registers, lists and information derived from registration forms to a candidate or a registered political committee for a use specifically authorized by this subsection does not constitute use for a commercial purpose. The county recorder, on a request for an authorized use and within thirty days from receipt of the request, shall prepare additional copies of an official precinct list and furnish them to any person requesting

them on payment of a fee equal to five cents for each name appearing on the register for a printed list and one cent for each name for an electronic data medium, plus the cost of the blank computer disk or computer software if furnished by the recorder, for each copy so furnished.

F. Any person in possession of a precinct register or list, in whole or part, or any reproduction of a precinct register or list, shall not permit the register or list to be used, bought, sold or otherwise transferred for any purpose except for uses otherwise authorized by this section. A person in possession of information derived from voter registration forms or precinct registers shall not distribute, post or otherwise provide access to any portion of that information through the internet except as authorized by subsection ~~I~~ J of this section. Nothing in this section shall preclude public inspection of voter registration records at the office of the county recorder for the purposes prescribed by this section, except that the month and day of birth date, the social security number or any portion thereof, the driver license number or nonoperating identification license number, the Indian census number, the father's name or mother's maiden name, the state or country of birth and the records containing a voter's signature shall not be accessible or reproduced by any person other than the voter, by an authorized government official in the scope of the official's duties, for signature verification on petitions and candidate filings, for election purposes and for news gathering purposes by a person engaged in newspaper, radio, television or reportorial work, or connected with or employed by a newspaper, radio or television station or pursuant to a court order. A person who violates this subsection or subsection E of this section is guilty of a class 6 felony.

G. The county recorder shall count the registered voters by political party by precinct, legislative district and congressional district as follows:

1. In even numbered years, the county recorder shall count all persons who are registered to vote as of:

(a) January 1.

(b) March 1.

(c) June 1.

(d) The last day on which a person may register to be eligible to vote in the next primary election.

(e) The last day on which a person may register to be eligible to vote in the next general election.

(f) The last day on which a person may register to be eligible to vote in the next presidential preference election.

2. In odd numbered years, the county recorder shall count all persons who are registered to vote as of:

(a) January 1.

(b) April 1.

(c) July 1.

(d) October 1.

H. The county recorder shall report the totals to the secretary of state as soon as is practicable following each of the dates prescribed in subsection G of this section. The report shall include completed registration forms returned in accordance with section 16-134, subsection B. The county recorder shall also provide the report in a uniform electronic computer media format that shall be agreed upon between the secretary of state and all county recorders. The secretary of state shall then prepare a summary report for the state and shall maintain that report as a permanent record.

I. The county recorder and the secretary of state shall protect access to voter registration information in an auditable format and method specified in the secretary of state's electronic voting system instructions and procedures manual that is adopted pursuant to section 16-452.

J. The secretary of state shall develop and administer a statewide database of voter registration information that contains the name and registration information of every registered voter in this state. The database shall include an identifier that is unique for each individual voter. The database shall provide for access by voter registration officials and shall allow expedited entry of voter registration information after it is received by county recorders. As a part of the statewide voter registration database, county recorders shall provide for the electronic transmittal of that information to the secretary of state on a daily basis. The secretary of state shall provide for maintenance of the database, including provisions regarding removal of ineligible voters that are consistent with the national voter registration act of 1993 (P.L. 103-31; 107 Stat. 77; 42 United States Code section 394) and the help America vote act of 2002 (P.L. 107-252; 116 Stat. 1666; 42 United States Code sections 15301 through 15545), provisions regarding removal of duplicate registrations and provisions to ensure that eligible voters are not removed in error.

K. Except as provided in subsection L of this section, for requests for the use of registration forms and access to information as provided in subsections E and F of this section, the county recorder shall receive and respond to requests regarding federal, state and county elections.

L. Beginning January 1, 2008, recognized political parties shall request precinct lists and access to information as provided in subsections E and F of this section during the time periods prescribed in subsection C or D of this section and the county recorder shall receive and respond to those requests. If the county recorder does not provide the requested materials within the applicable time prescribed for the county recorder pursuant to subsection C or D of this section, a recognized political party may request that the secretary of state provide precinct lists and access to information as provided in subsections E and F of this section for federal, state and county elections. The secretary of state shall not provide access to precinct lists and information for recognized political parties unless the

county recorder has failed or refused to provide the lists and materials as prescribed by this section. The secretary of state may charge the county recorder a fee determined by rule for each name or record produced.

M. For municipal registration information in those municipalities in which the county administers the municipal elections, county and state party chairmen shall request and obtain voter registration information and precinct lists from the city or town clerk during the time periods prescribed in subsection C or D of this section. If the city or town clerk does not provide that information within the same time prescribed for county recorders pursuant to subsection C or D of this section, the county or state party chairman may request and obtain the information from the county recorder. The county recorder shall provide the municipal voter registration and precinct lists within the time prescribed in subsection C or D of this section.

N. THE COUNTY RECORDERS AND THE SECRETARY OF STATE SHALL NOT PROHIBIT ANY PERSON OR ENTITY PRESCRIBED IN SUBSECTION C OF THIS SECTION FROM DISTRIBUTING A PRECINCT LIST TO ANY PERSON OR ENTITY THAT IS DEEMED TO BE USING THE PRECINCT LIST IN A LAWFUL MANNER AS PRESCRIBED IN SUBSECTIONS E AND F OF THIS SECTION.

Sec. 5. Section 16-201, Arizona Revised Statutes, is amended to read:

16-201. Primary elections

On the ~~ninth~~ TENTH Tuesday prior to a general or special election at which candidates for public office are to be elected, a primary election shall be held.

Sec. 6. Section 16-204, Arizona Revised Statutes, is amended to read:

16-204. Declaration of statewide concern; consolidated election dates

A. While the legislature recognizes that the method of conducting elections by political subdivisions, including charter counties and cities, may be a matter of local concern, the legislature finds and determines that for the purposes of increasing voter participation and for decreasing the costs to the taxpayers it is a matter of statewide concern that all elections in this state be conducted on a limited number of days and, therefore, the legislature finds and declares that the holding of all elections on certain specific consolidated days is a matter of statewide concern.

B. Notwithstanding any other law or any charter or ordinance of any county, city or town to the contrary, an election held for or on behalf of a county, city or town, a school district, a community college district or special districts organized pursuant to title 48, chapters 5, 6, 8, 10, 13 through 16 and 33 may only be held on the following dates:

1. Except for regular elections for candidates in a city or town with a population of one hundred seventy-five thousand or more persons, all elections, including recall elections and special elections to fill vacancies, shall be held on:

(a) The second Tuesday in March.

(b) The third Tuesday in May.

(c) The ~~ninth~~ TENTH Tuesday before the first Tuesday after the first Monday in November.

(d) The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes by a county, city, town, school district, community college district or special taxing district, except as provided by title 48.

2. For regular elections that are only for candidates in a city or town with a population of one hundred seventy-five thousand or more persons and not including recall elections and special elections to fill vacancies in those cities or towns, elections shall be held on:

(a) The ~~ninth~~ TENTH Tuesday before the first Tuesday after the first Monday in November.

(b) The first Tuesday after the first Monday in November.

C. For any city or town, including a charter city, that holds its regularly scheduled candidate elections in even-numbered years pursuant to subsection B, paragraph 2, the term of office for a member of the city council or for the office of mayor begins on or after the second Tuesday in January in the year following the election.

D. This section does not apply to an election regarding a county or city charter committee or county or city charter proposal that is conducted pursuant to article XIII, section 2 or 3 or article XII, section 5, Constitution of Arizona.

Sec. 7. Section 16-206, Arizona Revised Statutes, is amended to read:

16-206. Election day

A. The biennial primary election day on the ~~ninth~~ TENTH Tuesday before the general election and the biennial general election day on the first Tuesday after the first Monday in November of every even-numbered year are not legal holidays.

B. Every public officer or employee is entitled to absence from service or employment for the purpose of voting pursuant to section 16-402 on the biennial primary and general election days.

Sec. 8. Section 16-245, Arizona Revised Statutes, is amended to read:

16-245. Form and content of ballot

A. Ballots and ballot labels for the presidential preference election shall be printed on different colored paper or white paper with a different colored stripe for each party represented on the presidential preference election ballot. Only one party may be represented on each ballot. At the top shall be printed "official ballot of the _____ party, presidential preference election (date), county of _____, state of Arizona".

B. The order of the names of certified candidates on the ballot shall be determined by lots drawn at a public meeting called by the secretary of

state for that purpose. Rotation of candidate names is prohibited. The certified candidates shall be listed under the title "_____ party candidates for president of the United States". Immediately below shall be printed "vote for not more than one". The ballot may also contain printed instructions to voters as prescribed for other elections.

C. The officer in charge of elections shall provide a sample ballot proof to the state committee chairman of each qualified candidate's state committee no later than five days after receipt of the certification from the secretary of state.

D. The officer in charge of elections shall mail one sample ballot of each party represented on the presidential preference election ballot to each household that contains a registered voter of that political party UNLESS THAT REGISTERED VOTER IS ON THE PERMANENT EARLY VOTING LIST ESTABLISHED PURSUANT TO SECTION 16-544. The return address on the sample ballot mailer shall not contain the name of any elected or appointed official, and the name of an appointed or elected official shall not be used to indicate who produced the sample ballot.

E. The mailing face of each sample ballot shall be imprinted with the great seal of the state of Arizona with the words "official voting materials---presidential preference election". The polling place for that household may also be designated on the mailing face of the sample ballot.

Sec. 9. Section 16-312, Arizona Revised Statutes, is amended to read:

16-312. Filing of nomination papers for write-in candidates

A. Any person desiring to become a write-in candidate for an elective office in any election shall file a nomination paper, signed by the candidate, giving the person's actual residence address or description of place of residence and post office address, age, length of residence in the state and date of birth.

B. A write-in candidate shall file the nomination paper not later than 5:00 p.m. on the fortieth day prior to the election, except that:

1. A candidate running as a write-in candidate as provided in section 16-343, subsection D shall file the nomination paper not later than 5:00 p.m. on the fifth day before the election.

2. A candidate running as a write-in candidate for an election that may be canceled pursuant to ~~sections~~ SECTION 15-424, 15-1442, 16-822, 48-802, 48-1012, 48-1208, 48-1404, 48-1908, 48-2010, 48-2107 or 48-2208 shall file the nomination paper not later than 5:00 p.m. on the seventy-sixth day before the election.

C. The write-in filing procedure shall be in the same manner as prescribed in section 16-311. Any person who does not file a timely nomination paper shall not be counted in the tally of ballots. The filing officer shall not accept the nomination paper of a candidate for state or local office unless the candidate provides or has provided both of the following:

1. A political committee statement of organization or the five hundred dollar threshold exemption statement for that office.

2. The financial disclosure statement as prescribed for candidates for that office.

D. The secretary of state shall notify the various boards of supervisors as to write-in candidates filing with the secretary of state's office. The county school superintendent shall notify the appropriate board of supervisors as to write-in candidates filing with the superintendent's office. The board of supervisors shall notify the appropriate election board inspector of all candidates who have properly filed such statements. In the case of a city or town election, the city or town clerk shall notify the appropriate election board inspector of candidates properly filed. No other write-ins shall be counted. The election board inspector shall post the notice of official write-in candidates in a conspicuous location within the polling place.

E. Except as provided in section 16-343, subsection E, a candidate may not file pursuant to this section if any of the following applies:

1. For a candidate in the general election, the candidate ran in the immediately preceding primary election and failed to be nominated to the office sought in the current election.

2. For a candidate in the general election, the candidate filed a nomination petition for the immediately preceding primary election for the office sought and failed to provide a sufficient number of valid petition signatures as prescribed by section 16-322.

3. For a candidate in the primary election, the candidate filed a nomination petition for the current primary election for the office sought and failed to provide a sufficient number of valid petition signatures as prescribed by section 16-322.

4. For a candidate in the general election, the candidate filed a nomination petition for nomination other than by primary for the office sought and failed to provide a sufficient number of valid petition signatures as prescribed by section 16-341.

F. A person who files a nomination paper pursuant to this section for the office of president of the United States shall designate in writing to the secretary of state at the time of filing the name of the candidate's vice-presidential running mate, the names of presidential electors who will represent that candidate and a statement signed by the vice-presidential running mate and designated presidential electors that indicates their consent to be designated. A nomination paper for each presidential elector designated shall be filed with the candidate's nomination paper. The number of presidential electors shall equal the number of United States senators and representatives in Congress from this state.

Sec. 10. 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 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 ballot, and if upon examination the election officer finds an error or omission in the ballot the officer shall correct it. The election officer shall cause the sample ballots to be printed and distributed as required by law, shall maintain a copy of each sample ballot and shall post a notice indicating that sample ballots are available on request. The official sample ballot shall be printed on colored paper or white paper with a different colored stripe for each party that is represented on that ballot. For voters who are not registered with a party that is entitled to continued representation on the ballot pursuant to section 16-804, the election officer may print and distribute the required sample ballots in an alternative format, including a reduced size format.

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

D. The board of supervisors shall have printed mailer-type sample ballots for a primary election and shall mail at least eleven days before the election one sample ballot of a political party to each household containing a registered voter of that political party UNLESS THAT REGISTERED VOTER IS ON THE PERMANENT EARLY VOTING LIST ESTABLISHED PURSUANT TO SECTION 16-544. Each sample ballot shall contain the following statement: "This is a sample ballot and cannot be used as an official ballot under any circumstances". A certified claim shall be presented to the secretary of state by the board of supervisors for the actual cost of printing, labeling and postage of each sample ballot actually mailed, and the secretary of state shall direct payment of the authenticated claim from funds of the secretary of state's office.

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

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

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

Sec. 11. Section 16-510, Arizona Revised Statutes, is amended to read:

16-510. Sample ballots; preparation and distribution

A. Before printing the sample ballots for the general election the board of supervisors shall send to each candidate whose name did not appear on the preceding primary election ballot a ballot proof of the sample ballot for the candidate's review.

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

C. The board of supervisors shall have printed mailer-type sample ballots for a general election and shall mail at least eleven days before the election one such sample ballot to each household in the county containing a registered voter UNLESS THAT REGISTERED VOTER IS ON THE PERMANENT EARLY VOTING LIST ESTABLISHED PURSUANT TO SECTION 16-544. Each sample ballot shall contain the following statement: "This is a sample ballot and cannot be used as an official ballot under any circumstances". A certified claim shall be presented to the secretary of state by the board of supervisors for the actual cost of printing, labeling and postage of each such sample ballot actually mailed, and the secretary of state shall direct payment of such authenticated claim from funds of his office.

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

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

Sec. 12. Section 16-542, Arizona Revised Statutes, is amended to read:

16-542. Request for ballot

A. Within ninety-three days before any election called pursuant to the laws of this state, an elector may make a verbal or signed request to the county recorder, or other officer in charge of elections for the applicable political subdivision of this state in whose jurisdiction the elector is registered to vote, for an official early ballot. In addition to name and

address, the requesting elector shall provide the date of birth and state or country of birth or other information that if compared to the voter registration information on file would confirm the identity of the elector. If the request indicates that the elector needs a primary election ballot and a general election ballot, the county recorder or other officer in charge of elections shall honor the request. For any partisan primary election, if the elector is not registered as a member of a political party that is entitled to continued representation on the ballot pursuant to section 16-804, the elector shall designate the ballot of only one of the political parties that is entitled to continued representation on the ballot and the elector may receive and vote the ballot of only that one political party. The county recorder may establish on-site early voting locations at the recorder's office, which shall be open and available for use beginning the same day that a county begins to send out the early ballots. The county recorder may also establish any other early voting locations in the county the recorder deems necessary.

B. Notwithstanding subsection A of this section, a request for an official early ballot from an absent uniformed services voter or overseas voter as defined in the uniformed and overseas citizens absentee voting act of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6) or a voter whose information is protected pursuant to section 16-153 that is received by the county recorder or other officer in charge of elections more than ninety-three days before the election is valid. If requested by the absent uniformed services or overseas voter, or a voter whose information is protected pursuant to section 16-153, the county recorder or other officer in charge of elections shall provide to the requesting voter early ballot materials through the next two regularly scheduled general elections for federal office immediately following receipt of the request.

C. The county recorder or other officer in charge of elections shall mail the early ballot and the envelope for its return postage prepaid to the address provided by the requesting elector within five days after receipt of the official early ballots from the officer charged by law with the duty of preparing ballots pursuant to section 16-545, EXCEPT THAT EARLY BALLOT DISTRIBUTION SHALL NOT BEGIN MORE THAN TWENTY-SIX DAYS BEFORE THE ELECTION. ALL EARLY BALLOT REQUESTS RECEIVED ON OR BEFORE THE THIRTIETH DAY BEFORE THE ELECTION SHALL BE DISTRIBUTED ON THE TWENTY-SIXTH DAY BEFORE THE ELECTION.

D. Only the elector may be in possession of that elector's unvoted early ballot. If a complete and correct request is made by the elector within twenty-six days before the election, the mailing must be made within forty-eight hours after receipt of the request. Saturdays, Sundays and other legal holidays are excluded from the computation of the forty-eight hour period prescribed by this subsection. If a complete and correct request is made by an absent uniformed services voter or an overseas voter before the election, the regular early ballot shall be transmitted by mail, by fax or by other electronic format approved by the secretary of state within twenty-four

hours after the early ballots are delivered pursuant to section 16-545, subsection B, excluding Sundays.

E. In order to be complete and correct and to receive an early ballot by mail, an elector's request that an early ballot be mailed to the elector's residence or temporary address must include all of the information prescribed by subsection A of this section and must be received by the county recorder or other officer in charge of elections no later than 5:00 p.m. on the eleventh day preceding the election. An elector who appears personally no later than 5:00 p.m. on the Friday preceding the election at an on-site early voting location that is established by the county recorder or other officer in charge of elections shall be given a ballot and permitted to vote at the on-site location. If an elector's request to receive an early ballot is not complete and correct but complies with all other requirements of this section, the county recorder or other officer in charge of elections shall attempt to notify the elector of the deficiency of the request.

F. Unless an elector specifies that the address to which an early ballot is to be sent is a temporary address, the recorder may use the information from an early ballot request form to update voter registration records.

G. The county recorder or other officer in charge of early balloting shall provide an alphabetized list of all voters in the precinct who have requested and have been sent an early ballot to the election board of the precinct in which the voter is registered not later than the day prior to the election.

H. As a result of an emergency occurring between 5:00 p.m. on the second Friday preceding the election and 5:00 p.m. on the Monday preceding the election, qualified electors may request to vote early in the manner prescribed by the county recorder of their respective county. For the purposes of this subsection, "emergency" means any unforeseen circumstances that would prevent the elector from voting at the polls.

I. A candidate or political committee may distribute early ballot request forms to voters. If the early ballot request forms include a printed address for return to an addressee other than a political subdivision, the addressee shall be the candidate or political committee that paid for the printing and distribution of the request forms. All early ballot request forms that are received by a candidate or political committee shall be transmitted as soon as practicable to the political subdivision that will conduct the election.

Sec. 13. Section 16-558.01, Arizona Revised Statutes, is amended to read:

16-558.01. <u>Mailing of ballots</u>

Not more than ~~thirty-three~~ TWENTY-SIX days before the election and not fewer than fifteen days before the election, the county recorder or other officer in charge of elections for the special district shall send by nonforwardable mail all official ballots with printed instructions and a

return envelope bearing a printed ballot affidavit as described in section 16-547 to each qualified elector entitled to vote in the election. The envelope in which the ballot is mailed shall be clearly marked with the statement required by the postmaster to receive an address correction and notification. The district governing board shall determine whether the voter or the district governing board will pay for the postage for the return of electors' marked ballots. An elector who votes in a special district mail ballot election shall return the elector's marked ballot to the recorder or other officer in charge of the election or to a designated depository site as provided in section 16-411 no later than 7:00 p.m. on the day of the election.

Sec. 14. Section 16-602, Arizona Revised Statutes, is amended to read:

16-602. Removal of ballots from ballot boxes; disposition of ballots folded together or excessive ballots; designated margin; hand counts; vote count verification committee

A. The ballots cast in the election shall first be removed from the ballot box and counted without being opened, except as may be necessary to ascertain that the number of ballots cast corresponds with the number of names on the poll lists. For any primary or general election in which the votes are cast on an electronic voting machine or tabulator, the election judge shall compare the number of votes cast as indicated on the machine or tabulator with the number of votes cast as indicated on the poll list and the number of provisional ballots cast and that information shall be noted in a written report prepared and submitted to the officer in charge of elections along with other tally reports.

B. If two or more ballots are found folded together appearing as a single ballot, they shall be laid aside until the count of the ballots is completed. If it then appears by comparison of the count with the number of names on the poll lists that the ballots thus folded together were cast by one elector, they shall be destroyed. If the ballots in the box are still found to exceed in number the names on the poll lists, the ballots, except those destroyed, shall be replaced in the box, and one of the judges, without looking in the box, shall draw therefrom, one at a time, and destroy unopened, a number of ballots equal to the excess, and the election board shall record on the poll lists the number of ballots so destroyed and shall then sign the poll list.

C. For each countywide primary, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at ~~the central counting center~~ ONE OR MORE SECURE FACILITIES. THE HAND COUNT IS NOT SUBJECT TO THE LIVE VIDEO REQUIREMENTS OF SECTION 16-621, SUBSECTION C, BUT THE PARTY REPRESENTATIVES WHO ARE OBSERVING THE HAND COUNT MAY BRING THEIR OWN VIDEO CAMERAS IN ORDER TO RECORD THE HAND COUNT. THE RECORDING SHALL NOT INTERFERE WITH THE CONDUCT OF THE HAND COUNT AND THE OFFICER IN CHARGE OF THE ELECTION MAY PROHIBIT FROM RECORDING OR REMOVE FROM

THE FACILITY PERSONS WHO ARE TAKING ACTIONS TO DISRUPT THE COUNT. THE SOLE ACT OF RECORDING THE HAND COUNT DOES NOT CONSTITUTE SUFFICIENT GROUNDS FOR THE OFFICER IN CHARGE OF THE ELECTION TO PROHIBIT OBSERVERS FROM RECORDING OR TO REMOVE THEM FROM THE FACILITY. THE HAND COUNT SHALL BE CONDUCTED in the following order:

1. At least two per cent of the precincts in that county, or two precincts, whichever is greater, shall be selected at random from a pool consisting of every precinct in that county. The county political party chairman for each political party that is entitled to continued representation on the state ballot or the chairman's designee shall conduct the selection of the precincts to be hand counted. The precincts shall be selected by lot without the use of a computer, and the order of selection by the county political party chairmen shall also be by lot. The selection of the precincts shall not begin until all ballots voted in the precinct polling places have been delivered to the central counting center. The unofficial vote totals from all precincts shall be made public before selecting the precincts to be hand counted. Only the ballots cast in the polling places and ballots from direct recording electronic machines shall be included in the hand counts conducted pursuant to this section. Provisional ballots, conditional provisional ballots and write-in votes shall not be included in the hand counts and the early ballots shall be grouped separately by the officer in charge of elections for purposes of a separate manual audit pursuant to subsection G of this section.

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

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

(b) One contested statewide race for statewide office.

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

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

(e) If there are fewer than four contested races resulting from the selections made pursuant to subdivisions (a) through (d) and if there are additional contested federal, statewide or legislative races or ballot measures, additional contested races shall be selected by lot not using a computer until four races have been selected or until no additional contested

1 federal, statewide or legislative races or ballot measures are available for
2 selection.
3 (f) If there are no contested races as prescribed by this paragraph, a
4 hand count shall not be conducted for that precinct for that election.
5 3. For the presidential preference election, select by lot two per
6 cent of the polling places designated and used pursuant to section 16-248 and
7 perform the hand count of those ballots.
8 4. For the purposes of this section, a write-in candidacy in a race
9 does not constitute a contested race.
10 5. In elections in which there are candidates for president, the
11 presidential race shall be added to the four categories of hand counted
12 races.
13 6. Each county chairman of a political party that is entitled to
14 continued representation on the state ballot or the chairman's designee shall
15 select by lot the individual races to be hand counted pursuant to this
16 section.
17 7. The county chairman of each political party shall designate and
18 provide the number of election board members as designated by the county
19 officer in charge of elections who shall perform the hand count under the
20 supervision of the county officer in charge of elections. For each precinct
21 that is to be audited, the county chairmen shall designate at least two board
22 workers who are registered members of any or no political party to assist
23 with the audit. Any qualified elector from this state may be a board worker
24 without regard to party designation. The county election officer shall
25 provide for compensation for those board workers, not to include travel, meal
26 or lodging expenses. If there are less than two persons for each audited
27 precinct available to participate on behalf of each recognized political
28 party, the recorder or officer in charge of elections, with the approval of
29 at least two county party chairpersons in the county in which the shortfall
30 occurs, shall substitute additional individual electors who are provided by
31 any political party from anywhere in the state without regard to party
32 designation to conduct the hand count. A county party chairman shall approve
33 only those substitute electors who are provided by the county chairman's
34 political party. The political parties shall provide to the recorder or
35 officer in charge of elections in writing the names of those persons
36 intending to participate in the hand count at the audited precincts not later
37 than 5:00 p.m. on the Tuesday preceding the election. If the total number of
38 board workers provided by all parties is less than four times the number of
39 precincts to be audited, the recorder or officer in charge of elections shall
40 notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding
41 the election. The hand count shall not proceed unless the political parties
42 provide the recorder or officer in charge of elections, in writing, a
43 sufficient number of persons by 5:00 p.m. on the Thursday preceding the
44 election and a sufficient number of persons, pursuant to this paragraph,
45 arrive to perform the hand count. The recorder or officer in charge of

elections may prohibit persons from participating in the hand count if they are taking actions to disrupt the count or are unable to perform the duties as assigned. For the hand count to proceed, no more than seventy-five per cent of the persons performing the hand count shall be from the same political party.

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

D. If the randomly selected races result in a difference in any race that is less than the designated margin when compared to the electronic tabulation of those same ballots, the results of the electronic tabulation constitute the official count for that race. If the randomly selected races result in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation of those same ballots, a second hand count of those same ballots and races shall be performed. If the second hand count results in a difference in any race that is less than the designated margin when compared to the electronic tabulation for those same ballots, the electronic tabulation constitutes the official count for that race. If the second hand count results in a difference in any race that is equal to or greater than the designated margin when compared to the electronic tabulation for those same ballots, the hand count shall be expanded to include a total of twice the original number of randomly selected precincts. Those additional precincts shall be selected by lot without the use of a computer.

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

F. If a final hand count is performed for an entire jurisdiction for a race, the final hand count shall be repeated for that race until a hand count for that race for the entire jurisdiction results in a count that is identical to one other hand count for that race for the entire jurisdiction and that hand count constitutes the official count for that race.

G. After the electronic tabulation of early ballots and at one or more times selected by the chairman of the political parties entitled to continued representation on the ballot or the chairman's designee, the chairmen or the

chairmen's designees shall randomly select one or more batches of early ballots that have been tabulated to include at least one batch from each machine used for tabulating early ballots and those ballots shall be securely sequestered by the county recorder or officer in charge of elections along with their unofficial tally reports for a postelection manual audit. The chairmen or the chairmen's designees shall randomly select from those sequestered early ballots a number equal to one per cent of the total number of early ballots cast or five thousand early ballots, whichever is less. From those randomly selected early ballots, the county officer in charge of elections shall conduct a manual audit of the same races that are being hand counted pursuant to subsection C of this section. If the manual audit of the early ballots results in a difference in any race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be repeated for those same early ballots. If the second manual audit results in a difference in that race that is equal to or greater than the designated margin when compared to the electronically tabulated results for those same early ballots, the manual audit shall be expanded only for that race to a number of additional early ballots equal to one per cent of the total early ballots cast or an additional five thousand ballots, whichever is less, to be randomly selected from the batch or batches of sequestered early ballots. If the expanded early ballot manual audit results in a difference for that race that is equal to or greater than the designated margin when compared to any of the earlier manual counts for that race, the manual counts shall be repeated for that race until a manual count results in a difference in that race that is less than the designated margin. If at any point in the manual audit of early ballots the difference between any manual count of early ballots is less than the designated margin when compared to the electronic tabulation of those ballots, the electronic tabulation shall be included in the canvass and no further manual audit of the early ballots shall be conducted.

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

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

J. The hand counts prescribed by this section shall begin within twenty-four hours after the closing of the polls and shall be completed before the canvassing of the election for that county. The results of those hand counts shall be provided to the secretary of state, who shall make those results publicly available on the secretary of state's web site.

K. For any county in which a hand count has been expanded to all precincts in the jurisdiction, the secretary of state shall make available

the escrowed source code for that county to the superior court. The superior court shall appoint a special master to review the computer software. The special master shall have expertise in software engineering and shall not be affiliated with an election software vendor nor with a candidate and shall sign and be bound by a nondisclosure agreement regarding the source code itself, and shall issue a public report to the court and to the secretary of state regarding the special master's findings on the reasons for the discrepancies. The secretary of state shall consider the reports for purposes of reviewing the certification of that equipment and software for use in this state.

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

1. At least thirty days before the 2006 primary election, the secretary of state shall appoint seven persons to the committee, no more than three of whom are members of the same political party.

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

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

4. The vote count verification committee shall meet and establish one or more designated margins to be used in reviewing the hand counting of votes as required pursuant to this section. The committee shall review and consider revising the designated margins every two years for use in the applicable elections. The committee shall provide the designated margins to the secretary of state at least ten days before the primary election and at least ten days before the general election, and the secretary of state shall make that information publicly available on the secretary of state's web site.

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

Sec. 15. Section 19-201, Arizona Revised Statutes, is amended to read:

19-201. <u>Officers subject to recall; number of petitioners</u>

A. Every public officer holding an elective office, either by election, appointment or retention, is subject to recall from such office by the qualified electors of the electoral district from which candidates are elected to that office. Such electoral district may include the whole state. A number of qualified electors equaling twenty-five per cent of the number of votes cast at the last preceding general election for all the candidates for the office held by the officer, even if the officer was not elected at that

election, divided by the number of offices that were being filled at that election ~~may~~, by recall petition, MAY demand ~~his~~ THE OFFICER'S recall.

B. In the case of a public officer holding office in a newly created division or district of an elective office, either by election or appointment, a number of qualified electors equaling twenty-five per cent of the number of votes cast at the last preceding general election for all those who were candidates for other divisions or districts of the same office held by the officer in that county or city divided by the number of offices that were being filled at that election ~~may~~, by recall petition, MAY demand ~~his~~ THE OFFICER'S recall.

C. If the elective officer to be recalled was appointed to the office or was deemed elected after an election was canceled due to the absence of opposing candidates as provided in section 15-424, 15-1442, 16-822, 48-802, 48-1012, 48-1208, 48-1404, 48-1908, 48-2010, 48-2107 or 48-2208, the recall petition must be signed by the number of qualified electors that is equal to at least ten per cent of the number of active registered voters in the jurisdiction or district represented by that elective officer as determined on the date of the last general election.

Sec. 16. Candidate petitions; changes; applicability

Notwithstanding any other law, the changes made by this act to the date of the primary election shall not invalidate petitions lawfully printed and circulated before the effective date of this act or lawfully printed before, but circulated after, the effective date of this act.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House June 29, 2009,

by the following vote: 53 Ayes,

0 Nays, 7 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate June 22, 2009,

by the following vote: 26 Ayes,

3 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

1st day of July, 2009,

at 8:53 o'clock A. M.

Secretary to the Governor

Approved this 13th day of

July, 2009,

at 10:01 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 13 day of July, 2009,

at 3:20 o'clock P. M.

Secretary of State

S.B. 1074