

House Engrossed  
**FILED**  
**KEN BENNETT**  
**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 295

# HOUSE BILL 2729

AN ACT

AMENDING SECTION 16-442, 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 16-442, Arizona Revised Statutes, is amended to  
3 read:

4 16-442. Committee approval; adoption of vote tabulating  
5 equipment; experimental use; emergency

6 A. The secretary of state shall appoint a committee of three persons,  
7 to consist of a member of the engineering college at one of the universities,  
8 a member of the state bar of Arizona and one person familiar with voting  
9 processes in the state, no more than two of whom shall be of the same  
10 political party, ~~who~~ AND AT LEAST ONE OF WHOM SHALL HAVE AT LEAST FIVE YEARS  
11 OF EXPERIENCE WITH AND SHALL BE ABLE TO RENDER AN OPINION BASED ON KNOWLEDGE  
12 OF, TRAINING IN OR EDUCATION IN ELECTRONIC VOTING SYSTEMS, PROCEDURES AND  
13 SECURITY. THE COMMITTEE shall investigate and test the various types of vote  
14 recording or tabulating machines or devices ~~which~~ THAT may be used under this  
15 article. They shall submit their recommendations to the secretary of state  
16 who shall make final adoption of the type or types, make or makes, model or  
17 models to be certified for use in this state. The committee shall serve  
18 without compensation.

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

26 C. After consultation with the committee prescribed by subsection A,  
27 the secretary of state shall adopt standards that specify the criteria for  
28 loss of certification for equipment THAT WAS used at any election for  
29 federal, state or county offices and that was previously certified for use in  
30 this state. On loss of certification, machines or devices used at any  
31 election may not be used for any election for federal, state or county  
32 offices in this state unless recertified for use in this state.

33 D. The secretary of state may revoke the certification of any voting  
34 system or device for use in a federal, state or county election in this state  
35 or may prohibit for up to five years the purchase, lease or use of any voting  
36 system or device leased, installed or used by a person or firm in connection  
37 with a federal, state or county election in this state, or both, if either of  
38 the following occurs:

39 1. The person or firm installs, uses or permits the use of a voting  
40 system or device that is not certified for use or approved for experimental  
41 use in this state pursuant to this section.

42 2. The person or firm uses or includes hardware, firmware or software  
43 in a version that is not certified for use or approved for experimental use  
44 pursuant to this section in a certified voting system or device.

1 E. The governing body of a city or town or the board of directors of  
2 an agricultural improvement district may adopt for use in elections any kind  
3 of electronic voting system or vote tabulating device approved by the  
4 secretary of state, and thereupon the voting or marking device and vote  
5 tabulating equipment may be used at any or all elections for voting,  
6 recording and counting votes cast at AN election.

7 F. The secretary of state or the governing body may provide for the  
8 experimental use of a voting system or device without a final adoption  
9 thereof, and its use at the election is as valid as if the machines had been  
10 permanently adopted.

11 G. After consultation with the committee prescribed by subsection A,  
12 the secretary of state may approve for emergency use an upgrade or  
13 modification to a voting system or device that is certified for use in this  
14 state if the governing body establishes in an open meeting that the election  
15 cannot be conducted without the emergency certification. Any such emergency  
16 certification shall be limited to no more than six months. At the conclusion  
17 of the certification period the voting system or device shall be decertified  
18 and unavailable for future use unless certified in accordance with this  
19 section.

20 Sec. 2. Applicability

21 This act applies to appointments made by the secretary of state after  
22 January 3, 2011.

~~APPROVED BY THE GOVERNOR MAY 10, 2010.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2010.~~

Passed the House March 29, 2010

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate April 27, 2010

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

28 day of April, 20 10

at 11:30 o'clock A M.

[Signature]  
Secretary to the Governor

Approved this 10 day of

May, 2010

at 12:15 o'clock P M.

[Signature]  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 10<sup>th</sup> day of May, 20 10

at 4:10 o'clock P M.

[Signature]  
Secretary of State

H.B. 2729