Senate Engrossed House Bill

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KEN BENNETT
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CHAPTER 331

HOUSE BILL 2303

AN ACT

AMENDING SECTIONS 16-168, 16-169, 16-411, 16-511, 16-516, 16-571, 16-579, 16-602 AND 16-615, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. 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, OR AT LEAST TWO ELECTRONIC MEDIA POLL LISTS, OR ANY COMBINATION OF BOTH, 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 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. In addition to preparing the official precinct lists, the county recorder shall provide a means for electronically reproducing the precinct lists. Unless otherwise agreed, the county recorder shall deliver one electronic media copy of each precinct list in the county without charge and on the same day within eight days after the close of registration for the primary and general elections 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 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 electronic media copies of the precinct lists that are delivered to the party chairmen 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 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 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 on 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 statewide database is a matter of statewide concern and is not subject to modification or further regulation by a political subdivision. 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 real time 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. For the purpose of maintaining compliance with the help America vote act of 2002, each county voter registration system is subject to approval by the secretary of state for compatibility with the statewide voter registration database system.

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. 2. Section 16-169, Arizona Revised Statutes, is amended to read:

16-169. Disposition and use of precinct registers; signature roster; form

A. Upon completion of the precinct registers, the county recorder shall certify to their completeness and correctness and shall transmit ~~the original and two copies~~ THEM to the ~~several~~ election boards. A copy shall be retained by the county recorder IN EITHER PRINT OR ELECTRONIC MEDIA for verification purposes on election day, and then ~~such~~ THAT copy shall be delivered by the recorder to the early election boards. The board of election shall use the original of the precinct register, which shall be known as the "signature roster", for identifying the electors qualified to vote in the precinct and may use the remaining copies to process voters or may place them in a convenient place outside the poll limits for use by the electors.

B. IF PAPER SIGNATURE ROSTERS ARE USED, the signature roster shall be bound with suitable covers and shall bear on the outside front cover the title, "signature roster _____ precinct, _____ county, Arizona." On the cover shall appear, printed or typed, a certificate to be signed by the inspector substantially as follows:

> I, _____, inspector of the board of election of _____ precinct, _____ county, Arizona hereby certify that the foregoing (excepting signatures in red) are true and correct signatures of all electors who voted in _____ precinct on _____.
>
> (date)
>
> _____
>
> (inspector)

C. IF ELECTRONIC MEDIA POLL BOOK SYSTEMS ARE USED FOR SIGNATURE ROSTERS, A SEPARATE AFFIDAVIT SHALL BE SUPPLIED FOR THE INSPECTOR'S SIGNATURE THAT IS IN SUBSTANTIALLY THE SAME FORMAT AS PRESCRIBED IN SUBSECTION B OF THIS SECTION.

Sec. 3. Section 16-411, Arizona Revised Statutes, is amended to read:

16-411. Designation of election precincts and polling places; voting centers; electioneering; wait times

A. Except as prescribed by subsection J of this section, the board of supervisors of each county, on or before December 1 of each year preceding the year of a general election, by an order, shall establish a convenient number of election precincts in the county and define the boundaries of the precincts. Such election precinct boundaries shall be so established as included within election districts prescribed by law for elected officers of the state and its political subdivisions including community college district precincts, except those elected officers provided for in titles 30 and 48.

B. Not less than twenty days before a general or primary election, and at least ten days before a special election, the board shall designate one polling place within each precinct where the election shall be held, except that:

1. On a specific finding of the board, included in the order or resolution designating polling places pursuant to this subsection, that no suitable polling place is available within a precinct, a polling place for such precinct may be designated within an adjacent precinct.

2. Adjacent precincts may be combined if boundaries so established are included in election districts prescribed by law for state elected officials and political subdivisions including community college districts but not including elected officials prescribed by titles 30 and 48. The officer in charge of elections may also split a precinct for administrative purposes. Any such polling places shall be listed in separate sections of the order or resolution.

3. On a specific finding of the board that the number of persons who are listed as permanent early voters pursuant to section 16-544 is likely to substantially reduce the number of voters appearing at one or more specific polling places at that election, adjacent precincts may be consolidated by combining polling places and precinct boards for that election. The board of supervisors shall ensure that a reasonable and adequate number of polling places will be designated for that election. Any consolidated polling places shall be listed in separate sections of the order or resolution of the board.

4. ON A SPECIFIC RESOLUTION OF THE BOARD, THE BOARD MAY AUTHORIZE THE USE OF VOTING CENTERS IN PLACE OF OR IN ADDITION TO SPECIFICALLY DESIGNATED POLLING PLACES. A VOTING CENTER SHALL ALLOW ANY VOTER IN THAT COUNTY TO RECEIVE THE APPROPRIATE BALLOT FOR THAT VOTER ON ELECTION DAY AND LAWFULLY CAST THE BALLOT. VOTING CENTERS MAY BE ESTABLISHED IN COORDINATION AND CONSULTATION WITH THE COUNTY RECORDER, AT OTHER COUNTY OFFICES OR AT OTHER LOCATIONS IN THE COUNTY DEEMED APPROPRIATE.

C. If the board fails to designate the place for holding the election, or if it cannot be held at or about the place designated, the justice of the peace in the precinct, two days before the election, by an order, copies of which the justice of the peace shall immediately post in three public places

in the precinct, shall designate the place within the precinct for holding the election. If there is no justice of the peace in the precinct, or if the justice of the peace fails to do so, the election board of the precinct shall designate and give notice of the place within the precinct of holding the election. For any election in which there are no candidates for elected office appearing on the ballot, the board may consolidate polling places and precinct boards and may consolidate the tabulation of results for that election if all of the following apply:

1. All affected voters are notified by mail of the change at least thirty-three days before the election.

2. Notice of the change in polling places includes notice of the new voting location, notice of the hours for voting on election day and notice of the telephone number to call for voter assistance.

3. All affected voters receive information on early voting that includes the application used to request an early voting ballot.

D. The board is not required to designate a polling place for special district mail ballot elections held pursuant to article 8.1 of this chapter, but the board may designate one or more sites for voters to deposit marked ballots until 7:00 p.m. on the day of the election.

E. Except as provided in subsection F of this section, a public school shall provide sufficient space for use as a polling place for any city, county or state election when requested by the officer in charge of elections.

F. The principal of the school may deny a request to provide space for use as a polling place for any city, county or state election if, within two weeks after a request has been made, the principal provides a written statement indicating a reason the election cannot be held in the school, including any of the following:

1. Space is not available at the school.

2. The safety or welfare of the children would be jeopardized.

G. The board shall make available to the public as a public record a list of the polling places for all precincts in which the election is to be held including identification of polling place changes that were submitted to the United States department of justice for approval.

H. Except in the case of an emergency, any facility that is used as a polling place on election day shall allow persons to electioneer and engage in other political activity outside of the seventy-five foot limit prescribed by section 16-515 in public areas and parking lots used by voters. This subsection shall not be construed to permit the temporary or permanent construction of structures in public areas and parking lots or the blocking or other impairment of access to parking spaces for voters.

I. The secretary of state shall provide through the instructions and procedures manual adopted pursuant to section 16-452 the maximum allowable wait time for any election that is subject to section 16-204 and provide for a method to reduce voter wait time at the polls in the primary and general

elections. The method shall consider at least all of the following for primary and general elections in each precinct:

1. The number of ballots voted in the prior primary and general elections.

2. The number of registered voters who voted early in the prior primary and general elections.

3. The number of registered voters and the number of registered voters who cast an early ballot for the current primary or general election.

4. The number of election board members and clerks and the number of rosters that will reduce voter wait time at the polls.

J. The board of supervisors of a county shall not change precinct lines during the period after July 31, 2008 and before January 1, 2011. The board of supervisors may subdivide an election precinct for administrative purposes or may provide for more than one polling place within the boundaries of the election precincts established for use in voting in elections held after July 31, 2008 and before January 1, 2011. In providing for multiple polling places within a precinct, the board of supervisors shall consider the particular population characteristics of each precinct in order to provide the voters the most reasonable access to the polls possible.

Sec. 4. Section 16-511, Arizona Revised Statutes, is amended to read:

16-511. <u>Duty of board of supervisors to furnish election supplies to precinct officers</u>

A. IF PAPER SIGNATURE ROSTERS ARE USED IN A POLLING PLACE, the necessary printed blanks for poll lists, tally lists, lists of voters, ballots, oath and returns, together with envelopes in which to enclose the returns, shall be furnished by the board of supervisors to the officers of each election precinct at the expense of the county. For those elections over which the board of supervisors has no responsibility, the governing body of each election district is responsible for furnishing the necessary supplies for elections which it calls.

B. IF ELECTRONIC POLL BOOK SYSTEMS ARE USED IN A PRECINCT, THE BOARD OF SUPERVISORS SHALL FURNISH AT LEAST TWO ELECTRONIC POLL BOOK SYSTEMS FOR EACH POLLING PLACE, EACH OF WHICH SHALL BE CAPABLE OF PRINTING POLL LISTS, TALLY LISTS AND LISTS OF VOTERS.

C. FOR ANY ELECTION THAT IS NOT HELD UNDER THE SUPERVISION OF THE BOARD OF SUPERVISORS, THE GOVERNING BODY OF EACH ELECTION DISTRICT IS RESPONSIBLE FOR FURNISHING THE NECESSARY SUPPLIES FOR THAT ELECTION.

Sec. 5. Section 16-516, Arizona Revised Statutes, is amended to read:

16-516. <u>Form of poll lists</u>

A. The following form of poll lists shall be kept by boards and clerks of election:

"Poll lists.

Of the election held in the precinct of _____ in the county of _____ on the _____ day of _____ ~~nineteen hundred~~ _____, ~~A.B., C.D. and E.F., judges, and~~

~~G.H. and J.K., clerks~~ THE OFFICERS of the election, were respectively sworn or affirmed, as the law directs, previous to their entering on the duties of their respective offices, and the following is the number and name of electors voting:

~~Ballot stub No.~~	Register	Name No.

We hereby certify that the number of electors voting at this election was

_____

_____

_____

Clerks

_____

_____

_____

Board of election."

B. The paper used for poll lists is exempt from the paper size restrictions prescribed by section 39-103.

Sec. 6. Section 16-571, Arizona Revised Statutes, is amended to read:

16-571. Poll lists to be kept by election clerk; posting

A. IN PRECINCTS IN WHICH ELECTRONIC POLL BOOK SYSTEMS ARE NOT USED, at least one election board clerk shall keep a list in duplicate of persons voting, and the name of each person who votes shall be entered thereon and numbered in the order of voting.

B. IN PRECINCTS IN WHICH ELECTRONIC POLL BOOK SYSTEMS ARE NOT USED, the poll list as prescribed in section 16-516 shall be written on one side only, and the copies thereof shall be legible triplicate copies. Immediately upon the completion of each page of the poll list one copy shall, upon request, be given to a representative designated by each major political party. In an election with nonpartisan candidates or ballot issues, the officer in charge of the jurisdiction that is conducting the election may designate who is to receive copies of the poll lists. For the purposes of this subsection, "major political party" means the two parties receiving the highest number of votes for governor or presidential electors at the last election.

C. IN PRECINCTS IN WHICH ELECTRONIC POLL BOOK SYSTEMS ARE USED, AT LEAST ONE LIST OF PERSONS VOTING SHALL BE AVAILABLE BY PRINTED OR ELECTRONIC MEDIA. THE LIST SHALL BE IN SUBSTANTIALLY THE SAME FORMAT AS PRESCRIBED IN SECTION 16-516 AND ON REQUEST SHALL BE GIVEN TO A REPRESENTATIVE DESIGNATED BY EACH MAJOR POLITICAL PARTY. THE INFORMATION CONTAINED IN THE LIST ALSO

MAY BE PROVIDED ELECTRONICALLY TO A REPRESENTATIVE DESIGNATED BY EACH MAJOR POLITICAL PARTY BY WAY OF A SECURE ELECTRONIC FILE TRANSMITTAL FORMAT AS PRESCRIBED BY THE SECRETARY OF STATE.

Sec. 7. Section 16-579, Arizona Revised Statutes, is amended to read:

16-579. Procedure for obtaining ballot by elector

A. Every qualified elector, before receiving a ballot, shall announce the elector's name and place of residence in a clear, audible tone of voice to the election official in charge of the signature roster or present the elector's name and residence in writing. The election official in charge of the signature roster shall comply with the following and the qualified elector shall be allowed within the voting area:

1. The elector shall present any of the following:

(a) A valid form of identification that bears the photograph, name and address of the elector that reasonably ~~appears~~ APPEAR to be the same as the name and address in the precinct register, including an Arizona driver license, an Arizona nonoperating identification license, a tribal enrollment card or other form of tribal identification or a United States federal, state or local government issued identification. Identification is deemed valid unless it can be determined on its face that it has expired.

(b) Two different items that contain the name and address of the elector that reasonably ~~appears~~ APPEAR to be the same as the name and address in the precinct register, including a utility bill, a bank or credit union statement that is dated within ninety days of the date of the election, a valid Arizona vehicle registration, an Arizona vehicle insurance card, AN Indian census card, tribal enrollment card or other form of tribal identification, a property tax statement, a recorder's certificate, a voter registration card, a valid United States federal, state or local government issued identification or any mailing that is LABELED AS "official election material". Identification is deemed valid unless it can be determined on its face that it has expired.

(c) A valid form of identification that bears the photograph, name and address of the elector except that if the address on the identification does not reasonably appear to be the same as the address in the precinct register or the identification is a valid United States military identification card or a valid United States passport and does not bear an address, the identification must be accompanied by one of the items listed in subdivision (b) of this paragraph.

2. If the elector does not present identification that complies with paragraph 1 of this subsection, the elector is only eligible to vote a provisional ballot as prescribed by section 16-584 or a conditional provisional ballot as provided for in the secretary of state's instruction and procedures manual adopted pursuant to section 16-452.

B. Any qualified elector who is listed as having applied for an early ballot but who states that the elector has not voted and will not vote an early ballot for this election or surrenders the early ballot to the precinct inspector on election day shall be allowed to vote pursuant to the procedure set forth in section 16-584.

C. Each qualified elector's name shall be numbered consecutively by the clerks~~, with the number on the stub of the ballot delivered to the elector,~~ and in the order of applications for ballots. ~~The election judge having charge of the ballots shall also write the elector's initials on the stub and the number of the qualified elector as it appears on the precinct register.~~ The judge shall give the qualified elector only one ballot, and the elector's name shall be immediately checked on the precinct register.

D. FOR PRECINCTS IN WHICH A PAPER SIGNATURE ROSTER IS USED, each qualified elector shall sign the elector's name in the signature roster prior to receiving a ballot, but an inspector or judge may sign the roster for an elector who is unable to sign because of physical disability, and in that event the name of the elector shall be written with red ink, and no attestation or other proof shall be necessary. The provisions of this subsection relating to signing the signature roster shall not apply to electors casting a ballot using early voting procedures.

E. FOR PRECINCTS IN WHICH AN ELECTRONIC POLL BOOK SYSTEM IS USED, EACH QUALIFIED ELECTOR SHALL SIGN THE ELECTOR'S NAME AS PRESCRIBED IN THE INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED BY THE SECRETARY OF STATE PURSUANT TO SECTION 16-452 BEFORE RECEIVING A BALLOT, BUT AN INSPECTOR OR JUDGE MAY SIGN THE ROSTER FOR AN ELECTOR WHO IS UNABLE TO SIGN BECAUSE OF PHYSICAL DISABILITY, AND IN THAT EVENT THE NAME OF THE ELECTOR SHALL BE WRITTEN WITH THE INSPECTOR'S OR JUDGE'S ATTESTATION ON THE SAME SIGNATURE LINE.

~~E.~~ F. A person offering to vote at a special district election for which no special district register has been supplied shall sign an affidavit stating the person's address and that the person resides within the district boundaries or proposed district boundaries and swearing that the person is a qualified elector and has not already voted at the election being held.

Sec. 8. 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. 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. For each countywide primary, general and presidential preference election, the county officer in charge of the election shall conduct a hand count at one or more secure facilities. THE HAND COUNT SHALL BE CONDUCTED AS PRESCRIBED BY THIS SECTION AND IN ACCORDANCE WITH HAND COUNT PROCEDURES ESTABLISHED BY THE SECRETARY OF STATE IN THE OFFICIAL INSTRUCTIONS AND PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452. 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 F 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 federal, statewide or legislative races or ballot measures are available for selection.

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

3. For the presidential preference election, select by lot two per cent of the polling places designated and used pursuant to section 16-248 and perform the hand count of those ballots.

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

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

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

7. The county chairman of each political party shall designate and provide the number of election board members as designated by the county officer in charge of elections who shall perform the hand count under the supervision of the county officer in charge of elections. For each precinct that is to be audited, the county chairmen shall designate at least two board workers who are registered members of any or no political party to assist with the audit. Any qualified elector from this state may be a board worker without regard to party designation. The county election officer shall provide for compensation for those board workers, not to include travel, meal or lodging expenses. If there are less than two persons for each audited precinct available to participate on behalf of each recognized political party, the recorder or officer in charge of elections, with the approval of at least two county party chairpersons in the county in which the shortfall occurs, shall substitute additional individual electors who are provided by any political party from anywhere in the state without regard to party designation to conduct the hand count. A county party chairman shall approve only those substitute electors who are provided by the county chairman's political party. The political parties shall provide to the recorder or officer in charge of elections in writing the names of those persons

1 intending to participate in the hand count at the audited precincts not later
2 than 5:00 p.m. on the Tuesday preceding the election. If the total number of
3 board workers provided by all parties is less than four times the number of
4 precincts to be audited, the recorder or officer in charge of elections shall
5 notify the parties of the shortage by 9:00 a.m. on the Wednesday preceding
6 the election. The hand count shall not proceed unless the political parties
7 provide the recorder or officer in charge of elections, in writing, a
8 sufficient number of persons by 5:00 p.m. on the Thursday preceding the
9 election and a sufficient number of persons, pursuant to this paragraph,
10 arrive to perform the hand count. The recorder or officer in charge of
11 elections may prohibit persons from participating in the hand count if they
12 are taking actions to disrupt the count or are unable to perform the duties
13 as assigned. For the hand count to proceed, no more than seventy-five per
14 cent of the persons performing the hand count shall be from the same
15 political party.
16 8. If a political party is not represented by a designated chairperson
17 within a county, the state chairperson for that political party, or a person
18 designated by the state chairperson, may perform the actions required by the
19 county chairperson as specified in this section.
20 C. If the randomly selected races result in a difference in any race
21 that is less than the designated margin when compared to the electronic
22 tabulation of those same ballots, the results of the electronic tabulation
23 constitute the official count for that race. If the randomly selected races
24 result in a difference in any race that is equal to or greater than the
25 designated margin when compared to the electronic tabulation of those same
26 ballots, a second hand count of those same ballots and races shall be
27 performed. If the second hand count results in a difference in any race that
28 is less than the designated margin when compared to the electronic tabulation
29 for those same ballots, the electronic tabulation constitutes the official
30 count for that race. If the second hand count results in a difference in any
31 race that is equal to or greater than the designated margin when compared to
32 the electronic tabulation for those same ballots, the hand count shall be
33 expanded to include a total of twice the original number of randomly selected
34 precincts. Those additional precincts shall be selected by lot without the
35 use of a computer.
36 D. In any expanded count of randomly selected precincts, if the
37 randomly selected precinct hand counts result in a difference in any race
38 that is equal to or greater than the designated margin when compared to the
39 electronic tabulation of those same ballots, the final hand count shall be
40 extended to include the entire jurisdiction for that race. If the
41 jurisdictional boundary for that race would include any portion of more than
42 one county, the final hand count shall not be extended into the precincts of
43 that race that are outside of the county that is conducting the expanded hand
44 count. If the expanded hand count results in a difference in that race that
45 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.

E. 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.

F. 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 B 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.

G. 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.

H. 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.

I. 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~~ WEBSITE.

J. 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, shall not be affiliated with an election software vendor nor with a candidate, 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.

K. 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~~ WEBSITE.

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. 9. Section 16-615, Arizona Revised Statutes, is amended to read:

16-615. Delivery of returns

A. Before it adjourns, the election board or tally board shall enclose and seal in a strong envelope provided for that purpose one of the poll lists and one of the tally lists, signed as required~~, and the stubs of the voted ballots and shall direct it to the board of supervisors~~.

B. The envelope containing the poll list~~,~~ AND the tally list ~~and the stubs of the voted ballots~~ shall constitute the official returns of the election and shall, together with the envelope containing the voted ballots, be delivered to one of the members of the election board or tally board, previously determined by lot, unless otherwise agreed upon, and such member shall by himself, or by an agent agreed upon by the board and sworn by a member thereof, in the presence of the board to faithfully perform the duties of election messenger, without delay, and by the most expeditious means and route, deliver the packages and envelopes, without opening them, to the officer in charge of the election at his office, or to the nearest postmaster or sworn express agent, who shall endorse on the packages and envelopes the name of the person delivering them, and the hour and date of the delivery, and forward the packages and envelopes by the first mail or express to the officer in charge of the election at the county seat.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House February 22, 20 11

by the following vote: 55 Ayes,

5 Nays, 0 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 19, 20 4

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 received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____
Secretary of State

H.B. 2303

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 19, 2011,

by the following vote: 59 Ayes,

1 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

20 day of April, 2011,

at 8:30 o'clock A M.

Nicole Bendle

Secretary to the Governor

Approved this 29th day of

April, 2011,

at 2:03 o'clock P. M.

Jan K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 29th day of April, 2011,

at 7:30 o'clock P M.

Ken Bennett

Secretary of State

H.B. 2303