Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 339

HOUSE BILL 2701

AN ACT

AMENDING SECTIONS 16-152, 16-168, 16-411, 16-542, 16-544, 16-912, 16-912.01 AND 16-917, ARIZONA REVISED STATUTES; RELATING TO PRECINCT REGISTERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 16-152, Arizona Revised Statutes, is amended to read:

16-152. Registration form

A. The form used for the registration of electors shall contain:

1. The date the registrant signed the form.

2. The registrant's given name, middle name, if any, and surname.

3. The complete address of the registrant's actual place of residence, including street name and number, apartment or space number, city or town and zip code, or such description of the location of the residence that it can be readily ascertained or identified.

4. The registrant's complete mailing address, if different from the residence address, including post office address, city or town, zip code or other designation used by the registrant for receiving mail. THE FORM SHALL ALSO INCLUDE A LINE FOR THE REGISTRANT'S E-MAIL ADDRESS (OPTIONAL TO REGISTRANT).

5. The registrant's party preference. THE TWO LARGEST POLITICAL PARTIES THAT ARE ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT SHALL BE LISTED ON THE FORM IN THE ORDER DETERMINED BY CALCULATING WHICH PARTY HAS THE HIGHEST NUMBER OF REGISTERED VOTERS AT THE CLOSE OF REGISTRATION FOR THE MOST RECENT GENERAL ELECTION FOR GOVERNOR, THEN THE SECOND HIGHEST. THE FORM SHALL ALLOW THE REGISTRANT TO CIRCLE, CHECK OR OTHERWISE MARK THE PARTY PREFERENCE AND SHALL INCLUDE A BLANK LINE FOR OTHER PARTY PREFERENCE OPTIONS.

6. The registrant's telephone number, unless unlisted.

7. The registrant's state or country of birth.

8. The registrant's date of birth.

9. The registrant's occupation.

10. The registrant's Indian census number (optional to registrant).

11. The registrant's father's name or mother's maiden name.

12. One of the following identifiers for each registrant:

(a) The Arizona driver license number of the registrant or nonoperating identification license number of the registrant that is issued pursuant to section 28-3165.

(b) If the registrant does not have an Arizona driver license or nonoperating identification license, the last four digits of the registrant's social security number.

(c) If the registrant does not have an Arizona driver license or nonoperating identification license or a social security number and the registrant attests to that, a unique identifying number consisting of the registrant's unique identification number to be assigned by the secretary of state in the statewide electronic voter registration database.

13. A statement as to whether or not the registrant is currently registered in another state, county or precinct, and if so, the name, address, county and state of previous registration.

14. The question to the registrant "Are you a citizen of the United States of America?", appropriate boxes for the registrant to check "yes" or "no" and a statement instructing the registrant not to complete the form if the registrant checked "no".

15. The question to the registrant "Will you be eighteen years of age on or before election day?", appropriate boxes for the registrant to check "yes" or "no" and a statement instructing the registrant not to complete the form if the registrant checked "no".

16. A statement that the registrant has not been convicted of treason or a felony, or if so, that the registrant's civil rights have been restored.

17. A statement that the registrant is a resident of this state and of the county in which the registrant is registering.

18. A statement that executing a false registration is a class 6 felony.

19. The signature of the registrant.

20. If the registrant is unable to sign the form, a statement that the affidavit was completed according to the registrant's direction.

21. A statement that if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

22. A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

23. A statement that the applicant shall submit evidence of United States citizenship with the application and that the registrar shall reject the application if no evidence of citizenship is attached.

B. A duplicate voter receipt shall be provided with the form that provides space for the name, street address and city of residence of the applicant, party preference and the date of signing. The voter receipt is evidence of valid registration for the purpose of casting a provisional ballot as prescribed in section 16-584, subsection B.

C. The state voter registration form shall be printed in a form prescribed by the secretary of state.

D. The county recorder may establish procedures to verify whether a registrant has successfully petitioned the court for an injunction against harassment pursuant to section 12-1809 or an order of protection pursuant to section 13-3602 and, if verified, to protect the registrant's residence address, telephone number or voting precinct number, if appropriate, from public disclosure.

E. Subsection A of this section does not apply to registrations received from the department of transportation pursuant to section 16-112.

Sec. 2. 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 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~~ ESTABLISH A SINGLE FORMAT THAT PRESCRIBES 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, THAT ALL SUBMISSIONS ARE IDENTICAL IN FORMAT, INCLUDING THE LEVEL OF DETAIL FOR VOTING HISTORY, AND THAT INFORMATION MAY READILY BE COMBINED FROM TWO OR MORE COUNTIES. 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. 3. Section 16-411, Arizona Revised Statutes, is amended to read:

16-411. Designation of election precincts and polling places; 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.

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. THE COUNTY RECORDER SHALL POST ON ITS WEBSITE AT LEAST TWO WEEKS BEFORE ELECTION DAY A LIST OF THOSE POLLING PLACES IN WHICH EMERGENCY CONDITIONS PREVENT ELECTIONEERING AND SHALL SPECIFY THE REASON THE EMERGENCY EXEMPTION WAS GRANTED. IF THE POLLING PLACE IS NOT ON THE WEBSITE LIST OF POLLING PLACES WITH EMERGENCY CONDITIONS, ELECTIONEERING AND OTHER POLITICAL ACTIVITY SHALL BE PERMITTED OUTSIDE OF THE SEVENTY-FIVE FOOT LIMIT. IF AN EMERGENCY ARISES AFTER THE COUNTY RECORDER'S INITIAL WEBSITE POSTING, THE COUNTY RECORDER SHALL UPDATE THE WEBSITE AS SOON AS IS PRACTICABLE TO INCLUDE ANY NEW POLLING PLACES, SHALL HIGHLIGHT THE POLLING PLACE LOCATION ON THE WEBSITE AND SHALL SPECIFY THE REASON THE EMERGENCY EXEMPTION WAS GRANTED.

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 16-542, Arizona Revised Statutes, is amended to read:

16-542. <u>Request for ballot; civil penalties; violation; classification</u>

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. If an early ballot request is received on or before the thirtieth day before the election, the early ballot 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 OR OTHER ORGANIZATION 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~~ POLITICAL SUBDIVISION THAT WILL CONDUCT THE ELECTION. FAILURE TO USE THE POLITICAL SUBDIVISION AS THE RETURN ADDRESSEE IS PUNISHABLE BY A CIVIL PENALTY OF UP TO THREE TIMES THE COST OF THE PRODUCTION AND DISTRIBUTION OF THE REQUEST.

J. All ORIGINAL AND COMPLETED early ballot request forms that are received by a candidate or political committee shall be ~~transmitted as soon as practicable~~ SUBMITTED WITHIN SIX BUSINESS DAYS AFTER RECEIPT BY A CANDIDATE OR POLITICAL COMMITTEE OR ELEVEN DAYS BEFORE THE ELECTION DAY, WHICHEVER IS EARLIER, to the political subdivision that will conduct the election. ANY PERSON, POLITICAL COMMITTEE OR OTHER ORGANIZATION THAT FAILS

TO SUBMIT A COMPLETED EARLY BALLOT REQUEST FORM WITHIN THE PRESCRIBED TIME IS SUBJECT TO A CIVIL PENALTY OF UP TO TWENTY-FIVE DOLLARS PER DAY FOR EACH COMPLETED FORM WITHHELD FROM SUBMITTAL. ANY PERSON WHO KNOWINGLY FAILS TO SUBMIT A COMPLETED EARLY BALLOT REQUEST FORM BEFORE THE SUBMISSION DEADLINE FOR THE ELECTION IMMEDIATELY FOLLOWING THE COMPLETION OF THE FORM IS GUILTY OF A CLASS 6 FELONY.

Sec. 5. Section 16-544, Arizona Revised Statutes, is amended to read:

16-544. Permanent early voting list; violation; classification

A. Any voter may request to be included on a permanent list of voters to receive an early ballot for any election for which the county voter registration roll is used to prepare the election register. The county recorder of each county shall maintain the permanent early voting list as part of the voter registration roll.

B. In order to be included on the permanent early voting list, the voter shall make a written request specifically requesting that the voter's name be added to the permanent early voting list for all elections in which the applicant is eligible to vote. A permanent early voter request form shall conform to requirements prescribed in the instructions and procedures manual issued pursuant to section 16-452. The application shall allow for the voter to provide the voter's name, residence address, mailing address in the voter's county of residence, date of birth and signature AND SHALL STATE THAT THE VOTER IS ATTESTING THAT THE VOTER IS A REGISTERED VOTER WHO IS ELIGIBLE TO VOTE IN THE COUNTY OF RESIDENCE. The voter shall not list a mailing address that is outside of the voter's county of residence for the purpose of the permanent early voting list unless the voter is 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). In lieu of the application, the applicant may submit a written request that contains the required information.

C. On receipt of a request to be included on the permanent early voting list, the county recorder or other officer in charge of elections shall compare the signature on the request form with the voter's signature on the voter's registration form and, if the request is from the voter, shall mark the voter's registration file as a permanent early ballot request.

D. Not less than ninety days before any polling place election scheduled in March or August, the county recorder or other officer in charge of elections shall mail to all voters who are eligible for the election and who are included on the permanent early voting list an election notice by nonforwardable mail that is marked with the statement required by the postmaster to receive an address correction notification. If an election is not formally called by a jurisdiction by the one hundred twentieth day before the election, the recorder or other officer in charge of elections is not required to send the election notice. The notice shall include the dates of the elections that are the subject of the notice, the dates that the voter's ballot is expected to be mailed and the address where the ballot will be

1 mailed. If the upcoming election is a partisan open primary election and the
2 voter is not registered as a member of one of the political parties that is
3 recognized for purposes of that primary, the notice shall include information
4 on the procedure for the voter to designate a political party ballot. The
5 notice shall be delivered with return postage prepaid and shall also include
6 a means for the voter to do any of the following:
7 1. Change the mailing address for the voter's ballot to another
8 location in the voter's county of residence.
9 2. Update the voter's residence address in the voter's county of
10 residence.
11 3. Request that the voter not be sent a ballot for the upcoming
12 election or elections indicated on the notice.
13 E. If the notice that is mailed to the voter is returned undeliverable
14 by the postal service, the county recorder or other officer in charge of
15 elections shall take the necessary steps to contact the voter at the voter's
16 new residence address in order to update that voter's address or to move the
17 voter to inactive status as prescribed in section 16-166, subsection A. If a
18 voter is moved to inactive status, the voter shall be removed from the
19 permanent early voting list. If the voter is removed from the permanent
20 early voting list, the voter shall only be added to the permanent early
21 voting list again if the voter submits a new request pursuant to this
22 section.
23 F. Not later than the first day of early voting, the county recorder
24 or other officer in charge of elections shall mail an early ballot to all
25 eligible voters included on the permanent early voting list in the same
26 manner prescribed in section 16-542, subsection C. If the voter has not
27 returned the notice or otherwise notified the election officer within
28 forty-five days before the election that the voter does not wish to receive
29 an early ballot by mail for the election or elections indicated, the ballot
30 shall automatically be scheduled for mailing.
31 G. If a voter who is on the permanent early voting list is not
32 registered as a member of a recognized political party and fails to notify
33 the county recorder of the voter's choice for political party ballot within
34 forty-five days before a partisan open primary election, the following apply:
35 1. The voter shall not automatically be sent a ballot for that
36 partisan open primary election only and the voter's name shall remain on the
37 permanent early voting list for future elections.
38 2. To receive an early ballot for the primary election, the voter
39 shall submit the voter's choice for political party ballot to the county
40 recorder.
41 H. After a voter has requested to be included on the permanent early
42 voting list, the voter shall be sent an early ballot by mail automatically
43 for any election at which a voter at that residence address is eligible to
44 vote until any of the following occurs:

1. The voter requests in writing to be removed from the permanent early voting list.

2. The voter's registration or eligibility for registration is moved to inactive status or canceled as otherwise provided by law.

3. The notice sent by the county recorder or other officer in charge of elections is returned undeliverable and the county recorder or officer in charge of elections is unable to contact the voter to determine the voter's continued desire to remain on the list.

I. A voter may make a written request at any time to be removed from the permanent early voting list. The request shall include the voter's name, residence address, date of birth and signature. On receipt of a completed request to remove a voter from the permanent early voting list, the county recorder or other officer in charge of elections shall remove the voter's name from the list as soon as practicable.

J. 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) is eligible to be placed on the permanent early voting list pursuant to this section.

K. A voter's failure to vote an early ballot once received does not constitute grounds to remove the voter from the permanent early voting list.

L. A CANDIDATE, POLITICAL COMMITTEE OR OTHER ORGANIZATION MAY DISTRIBUTE PERMANENT EARLY VOTING LIST REQUEST FORMS TO VOTERS. IF THE PERMANENT EARLY VOTING LIST REQUEST FORMS INCLUDE A PRINTED ADDRESS FOR RETURN, THAT ADDRESS SHALL BE THE POLITICAL SUBDIVISION THAT WILL CONDUCT THE ELECTION. FAILURE TO USE THE POLITICAL SUBDIVISION AS THE RETURN ADDRESSEE IS PUNISHABLE BY A CIVIL PENALTY OF UP TO THREE TIMES THE COST OF THE PRODUCTION AND DISTRIBUTION OF THE PERMANENT EARLY VOTING LIST REQUEST.

M. ALL ORIGINAL AND COMPLETED PERMANENT EARLY VOTING LIST REQUEST FORMS THAT ARE RECEIVED BY A CANDIDATE, POLITICAL COMMITTEE OR OTHER ORGANIZATION SHALL BE SUBMITTED WITHIN SIX BUSINESS DAYS AFTER RECEIPT BY A CANDIDATE OR POLITICAL COMMITTEE OR ELEVEN DAYS BEFORE THE ELECTION DAY, WHICHEVER IS EARLIER, TO THE POLITICAL SUBDIVISION THAT WILL CONDUCT THE ELECTION. ANY PERSON, POLITICAL COMMITTEE OR OTHER ORGANIZATION THAT FAILS TO SUBMIT A COMPLETED PERMANENT EARLY VOTING LIST REQUEST FORM WITHIN THE PRESCRIBED TIME IS SUBJECT TO A CIVIL PENALTY OF UP TO TWENTY-FIVE DOLLARS PER DAY FOR EACH COMPLETED FORM WITHHELD FROM SUBMITTAL. ANY PERSON WHO KNOWINGLY FAILS TO SUBMIT A COMPLETED PERMANENT EARLY VOTING LIST REQUEST FORM BEFORE THE SUBMISSION DEADLINE FOR THE ELECTION IMMEDIATELY FOLLOWING THE COMPLETION OF THE FORM IS GUILTY OF A CLASS 6 FELONY.

Sec. 6. Section 16-912, Arizona Revised Statutes, is amended to read:

16-912. <u>Candidates and independent expenditures; campaign literature and advertisement sponsors; identification; civil penalty</u>

A. A political committee that makes an expenditure for campaign literature or advertisements that expressly advocate the election or defeat

of any candidate or that make any solicitation of contributions to any political committee shall be registered pursuant to this chapter at the time of distribution, placement or solicitation and shall include on the literature or advertisement the words "paid for by" followed by the name of the committee that appears on its statement of organization or five hundred dollar exemption statement.

B. If the expenditure for the campaign literature or advertisements by a political committee is an independent expenditure, the political committee, in addition to the disclosures required by subsection A of this section, shall include on the literature or advertisement the names and telephone numbers of the three political committees making the largest contributions to the political committee making the independent expenditure. If an acronym is used to name any political committee outlined in this section, the name of any sponsoring organization of the political committee shall also be printed or spoken. For purposes of determining the three contributors to be disclosed, the contributions of each political committee to the political committee making the independent expenditure during the one year period before the election being affected are aggregated.

C. ~~The provisions of~~ Subsection A of this section ~~do~~ DOES not apply to bumper stickers, pins, buttons, pens and similar small items on which the statements required in subsection A of this section cannot be conveniently printed or to signs paid for by a candidate with campaign monies or by a candidate's campaign committee or to a solicitation of contributions by a separate segregated fund from those persons it may solicit pursuant to sections 16-920 and 16-921.

D. The disclosures required pursuant to this section shall be printed clearly and legibly in a conspicuous manner or, if the advertisement is broadcast on a telecommunications system, the disclosure shall be spoken. FOR PRINTED MATERIAL THAT IS DELIVERED OR PROVIDED BY HAND OR BY MAIL, THE DISCLOSURE SHALL BE PRINTED IN A FONT THAT IS AT LEAST 3/32 INCHES TALL IN DARK TYPE ON LIGHT BACKGROUND SURROUNDED BY A DARK BOX.

E. A person who violates this section is subject to a civil penalty of up to three times the cost of producing and distributing the literature or advertisement. This civil penalty shall be imposed as prescribed in section 16-924.

Sec. 7. Section 16-912.01, Arizona Revised Statutes, is amended to read:

16-912.01. <u>Ballot measure committees; campaign literature and advertising funding; identification; disclosure; civil penalty; definition</u>

A. A political committee that makes an expenditure in connection with any literature or advertisement to support or oppose a ballot proposition shall disclose and, after November 2, 2010, shall include on the literature or advertisement the words "paid for by", followed by the name of the committee that appears on its statement of organization or five hundred

1 dollar threshold exemption statement, and shall also include in such
2 literature or advertisement the four largest of its major funding sources as
3 of the time the literature or advertisement is printed, recorded or otherwise
4 produced for dissemination. If a political committee has fewer than four
5 major funding sources, the committee shall disclose all major funding
6 sources.
7 B. For THE purposes of this section, a major funding source of a
8 political committee is any contributor that is not an individual person and
9 that has made cumulative contributions of either:
10 1. Ten thousand dollars or more for an expenditure in support of or
11 opposition to a statewide ballot proposition or a ballot proposition of a
12 political subdivision with a population of one hundred thousand persons or
13 more.
14 2. Five thousand dollars or more for an expenditure in support of or
15 opposition to a ballot proposition of a political subdivision with a
16 population of less than one hundred thousand persons.
17 C. If an out-of-state contributor or group of out-of-state
18 contributors is a major funding source to a political committee disclosed
19 pursuant to subsection A, the political committee shall state the contributor
20 is an out-of-state contributor on its literature or advertisement in support
21 of or in opposition to a ballot proposition.
22 D. Contributors that make contributions to more than one political
23 committee that supports or opposes the same ballot proposition shall notify
24 each political committee of the cumulative total of these contributions.
25 Cumulative totals must be disclosed by each political committee that received
26 contributions from the same contributor if the cumulative totals qualify as a
27 major funding source to be disclosed pursuant to subsection A.
28 E. Any disclosure statement required by this section shall be printed
29 clearly and legibly in a conspicuous manner in type at least as large as the
30 majority of the printed text. FOR PRINTED MATERIAL THAT IS DELIVERED OR
31 PROVIDED BY HAND OR BY MAIL, THE DISCLOSURE SHALL BE PRINTED IN A FONT THAT
32 IS AT LEAST 3/32 INCHES TALL IN DARK TYPE ON LIGHT BACKGROUND SURROUNDED BY A
33 DARK BOX. If the communication is broadcast on radio, the information shall
34 be spoken at the end of the communication. If the communication is broadcast
35 on a telecommunications system, the information shall be both written and
36 spoken at the end of the communication, except that if the disclosure
37 statement is written for at least five seconds of a thirty second
38 advertisement broadcast or ten seconds of a sixty second advertisement
39 broadcast, a spoken disclosure statement is not required. If the
40 communication is broadcast on a telecommunications system, the written
41 disclosure statement shall be printed in letters equal to or larger than four
42 per cent of the vertical picture height.
43 F. Subsection A does not apply to bumper stickers, pins, buttons, pens
44 and similar small items on which the statements required in subsection A

cannot be conveniently printed or to a communication by an organization solely to its members.

G. A committee shall change future literature and advertisements to reflect any change in funding sources that must be disclosed pursuant to subsection A.

H. This section only applies to advertisements the contents of which are more than fifty per cent devoted to one or more ballot propositions or proposed measures on the same subject.

I. Any committee that violates this section is liable in a civil action brought by the attorney general, county attorney or city or town attorney, as appropriate, or by any other person for a civil penalty of three times the total cost of the advertisement. A donor who does not accurately disclose its contributions is liable for a civil penalty of three times the amount donated.

J. For the purposes of this section, "advertisement" means general public advertising through the print and electronic media, signs, billboards and direct mail.

Sec. 8. Section 16-917, Arizona Revised Statutes, is amended to read:

16-917. Independent expenditures; in-kind contribution; civil penalty

A. A political committee that makes independent expenditures for literature or an advertisement relating to any one candidate or office within ~~ten~~ SIXTY days before the day of any election to which the expenditures relate, shall send by certified mail a copy of the campaign literature or advertisement to each candidate named or otherwise referred to in the literature or advertisement twenty-four hours after depositing it at the post office for mailing, twenty-four hours after submitting it to a telecommunications system for broadcast or twenty-four hours after submitting it to a newspaper for printing.

B. The copy of the literature or advertisement sent to a candidate pursuant to subsection A of this section shall be a reproduction that is clearly readable, viewable or audible.

C. An expenditure by a political committee or a person that does not meet the definition of an independent expenditure is an in-kind contribution to the candidate and a corresponding expenditure by the candidate unless otherwise exempted.

D. A person who violates this section is subject to a civil penalty of three times the cost of the literature or advertisement that was distributed in violation of this section. This civil penalty shall be imposed as prescribed in section 16-924.

Sec. 9. Applicability; voter registration forms

Section 16-152, Arizona Revised Statutes, as amended by this act, applies to voter registration forms printed on and after January 1, 2012.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

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

Passed the House March 10, 2011

by the following vote: 45 Ayes,

15 Nays, 0 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate April 19, 2011

by the following vote: 21 Ayes,

9 Nays, 0 Not Voting

President of the Senate

Susan Acles

Assistant 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. 2701

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

April 19, 2011,

by the following vote: 39 Ayes,

20 Nays, 1 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 3:45 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. 2701