

REFERENCE TITLE: **electronic ballot adjudication; prohibition**

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **HB 2239**

Introduced by  
Representatives Hoffman: Barton, Blackman, Burges, Chaplik, Fillmore,  
Griffin, Kavanagh, Parker, Pingerelli

**AN ACT**

**AMENDING SECTION 16-621, ARIZONA REVISED STATUTES; RELATING TO CONDUCT OF ELECTIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-621, Arizona Revised Statutes, is amended to  
3 read:

4 16-621. Proceedings at the counting center

5 A. All proceedings at the counting center shall be under the  
6 direction of the board of supervisors or other officer in charge of  
7 elections and shall be conducted in accordance with the approved  
8 instructions and procedures manual issued pursuant to section 16-452 under  
9 the observation of representatives of each political party and the public.  
10 The proceedings at the counting center may also be observed by up to three  
11 additional people representing a candidate for nonpartisan office, or  
12 representing a political committee in support of or in opposition to a  
13 ballot measure, proposition or question. A draw by lot shall determine  
14 which three groups or candidates shall have representatives participate in  
15 the observation at the counting center. Persons representing a candidate  
16 for nonpartisan office or persons or groups representing a political  
17 committee in support of or in opposition to a ballot measure, proposition  
18 or question, who are interested in participating in the observation, shall  
19 notify the officer in charge of elections of their desire to be included  
20 in the draw not later than seventeen days before the election. After the  
21 deadline to receive submissions from the interested persons or groups, but  
22 prior to fourteen days before the election, the county officer in charge  
23 of elections shall draw by lot, from the list of those that expressed  
24 interest, three persons or groups and those selected shall be notified and  
25 allowed to observe the proceedings at the counting center. If a group is  
26 selected the group may alter who represents that group for different days  
27 of observation but on any given observation day a selected group shall not  
28 send more than one observer. A group may rotate an observer throughout  
29 the day. Only those persons who are authorized for the purpose shall  
30 touch any ballot or ballot card or return. All persons who are engaged in  
31 processing and counting of the ballots shall be qualified electors, shall  
32 be deputized in writing and shall take an oath that they will faithfully  
33 perform their assigned duties. There shall be no preferential counting of  
34 ballots for the purpose of projecting the outcome of the election. If any  
35 ballot, including any ballot received from early voting, is damaged or  
36 defective so that it cannot properly be counted by the automatic  
37 tabulating equipment, a true duplicate copy ~~shall be made~~ of the damaged  
38 or defective ballot **SHALL BE MADE BY HAND** in the presence of witnesses and  
39 substituted for the damaged or defective ballot. All duplicate ballots  
40 created pursuant to this subsection shall be clearly labeled "duplicate"  
41 and shall bear a serial number that shall be recorded on the damaged or  
42 defective ballot.

1           B. ~~If the counting center automatic tabulating equipment includes~~  
2 ~~an electronic vote adjudication feature that has been certified for use as~~  
3 ~~prescribed by section 16-442 and the board of supervisors or officer in~~  
4 ~~charge of elections authorizes the use of this feature at the counting~~  
5 ~~center~~ FOR ANY DUPLICATION AND ADJUDICATION OF BALLOTS, all of the  
6 following apply:

7           1. The BOARD OF SUPERVISORS AND OFFICER IN CHARGE OF ELECTIONS MAY  
8 NOT USE AN electronic vote adjudication ~~feature shall be included in the~~  
9 ~~tabulation system logic and accuracy testing prescribed by section 16-449~~  
10 SYSTEM.

11           2. The board of supervisors or officer in charge of elections shall  
12 appoint ~~an electronic~~ A vote adjudication board that consists of two  
13 judges who are overseen by an inspector, with the two judges equally  
14 divided between the two largest political parties as prescribed by section  
15 16-531, subsection D to adjudicate and submit for tabulation a ballot that  
16 is read by the tabulation machine as blank in order to determine if voter  
17 intent is clear on a portion or all of the ballot, or any portion of any  
18 ballot as prescribed by section 16-610 or 16-611, or to tally write-in  
19 choices as prescribed by section 16-612.

20           3. The ~~electronic~~ vote adjudication process used by the ~~electronic~~  
21 vote adjudication board shall provide for:

22           (a) A method to track and account for the original ballot and the  
23 ~~digital~~ duplicate of the ballot ~~created by the electronic vote~~  
24 ~~adjudication feature~~ that includes a serial number on the ~~digital image~~  
25 DUPLICATED BALLOT that can be used to track ~~electronic~~ vote adjudication  
26 board actions.

27           (b) The creation and retention of comprehensive logs of all ~~digital~~  
28 duplication and adjudication actions performed by ~~an electronic~~ A vote  
29 adjudication board.

30           (c) The retention of the original ballot and the ~~digital~~ duplicate  
31 of the ballot.

32           C. If for any reason it becomes impracticable to count all or a  
33 part of the ballots with tabulating equipment, the officer in charge of  
34 elections may direct that they be counted manually, following as far as  
35 practicable the provisions governing the counting of paper ballots.

36           D. For any statewide, county or legislative election, the county  
37 recorder or officer in charge of elections shall provide for a live video  
38 recording of the custody of all ballots while the ballots are present in a  
39 tabulation room in the counting center. The live video recording shall  
40 include date and time indicators and shall be linked to the secretary of  
41 state's website. The secretary of state shall post links to the video  
42 coverage for viewing by the public. The county recorder or officer in  
43 charge of elections shall record the video coverage of the ballots at the  
44 counting center and shall retain those recordings as a public record for  
45 at least as long as the challenge period for the general election. If the

1 live video feed is disrupted or disabled, the recorder or officer in  
2 charge of elections is not liable for the disruption but shall attempt to  
3 reinstate video coverage as soon as is practicable. Any disruption in  
4 video coverage shall not affect or prevent the continued tabulation of  
5 ballots. This subsection is contingent on legislative appropriation.

6 E. The county recorder or other officer in charge of elections  
7 shall maintain records that record the chain of custody for all election  
8 equipment and ballots during early voting through the completion of  
9 provisional voting tabulation.