

REFERENCE TITLE: emergency voting; registration update; prohibition

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

HB 2288

Introduced by
Representatives Fillmore: Carter

AN ACT

AMENDING SECTIONS 16-246, 16-411, 16-542 AND 16-549, ARIZONA REVISED
STATUTES; RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-246, Arizona Revised Statutes, is amended to
3 read:

4 16-246. Early balloting; satellite locations; additional
5 procedures

6 A. Within ninety-three days before the presidential preference
7 election and not later than 5:00 p.m. on the eleventh day preceding the
8 election, any elector who is eligible to vote in the presidential
9 preference election may make a verbal or signed, written request for an
10 official early ballot to the county recorder or other officer in charge of
11 elections for the county in which the elector is registered to vote. If
12 the request is verbal, the requesting elector shall provide the date of
13 birth and birthplace or other information that if compared to the voter
14 registration records for that elector would confirm the identity of the
15 elector.

16 B. Absent uniformed services voters or overseas voters who are
17 otherwise eligible to vote in the election may vote as prescribed by
18 sections 16-543 and 16-543.02.

19 C. The county recorder or other officer in charge of elections may
20 establish on-site early voting locations at the office of the county
21 recorder or at other locations in the county deemed necessary or
22 appropriate by the recorder. Early voting shall begin within the time
23 limits prescribed in section 16-542 unless otherwise prescribed by this
24 section.

25 D. The county recorder or other officer in charge of elections
26 shall send by nonforwardable mail that is marked with the statement
27 required by the postmaster to receive an address correction notification
28 any early ballots that are requested pursuant to subsections A and B of
29 this section and shall include a preaddressed envelope for the elector to
30 return the completed ballot.

31 E. The county recorder or other officer in charge of elections
32 shall provide to each election board an appropriate alphabetized list of
33 voters who have requested and have been sent an early ballot. Any person
34 who is on that list of voters and who was sent an early ballot shall not
35 vote at the polling place for that election precinct except as prescribed
36 by section 16-579, subsection B.

37 F. The county recorder or other officer in charge of elections may
38 provide for ~~any of the following~~ SPECIAL ELECTION BOARDS in the same
39 manner prescribed by law for other elections. ~~;~~

40 ~~1. Special election boards.~~

41 ~~2. Emergency balloting for persons who experience an emergency~~
42 ~~after 5:00 p.m. on the Friday preceding the presidential preference~~
43 ~~election and before 5:00 p.m. on the Monday immediately preceding the~~
44 ~~presidential preference election. Before receiving a ballot pursuant to~~
45 ~~this paragraph, a person who experiences an emergency shall provide~~

1 ~~identification as prescribed in section 16-579 and shall sign a statement~~
2 ~~under penalty of perjury that states that the person is experiencing or~~
3 ~~experienced an emergency after 5:00 p.m. on the Friday immediately~~
4 ~~preceding the election and before 5:00 p.m. on the Monday immediately~~
5 ~~preceding the election that would prevent the person from voting at the~~
6 ~~polls. Signed statements received pursuant to this subsection are not~~
7 ~~subject to inspection pursuant to title 39, chapter 1, article 2.~~

8 ~~G. Notwithstanding section 16-579, subsection A, paragraph 2, for~~
9 ~~emergency balloting pursuant to subsection F, paragraph 2 of this section,~~
10 ~~the county recorder or other officer in charge of elections may allow a~~
11 ~~qualified elector to update the elector's voter registration information~~
12 ~~as provided for in the secretary of state's instructions and procedures~~
13 ~~manual adopted pursuant to section 16-452.~~

14 ~~H.~~ G. Sections 16-550, 16-551 and 16-552 govern the use of early
15 balloting for the presidential preference election.

16 Sec. 2. Section 16-411, Arizona Revised Statutes, is amended to
17 read:

18 16-411. Designation of election precincts and polling places;
19 voting centers; electioneering; wait times

20 A. The board of supervisors of each county, on or before October 1
21 of each year preceding the year of a general election, by an order, shall
22 establish a convenient number of election precincts in the county and
23 define the boundaries of the precincts. The election precinct boundaries
24 shall be established so as to be included within election districts
25 prescribed by law for elected officers of the state and its political
26 subdivisions including community college district precincts, except those
27 elected officers provided for in titles 30 and 48.

28 B. At least twenty days before a general or primary election, and
29 at least ten days before a special election, the board shall designate one
30 polling place within each precinct where the election shall be held,
31 except that:

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

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

43 3. On a specific finding of the board that the number of persons
44 who are listed as early voters pursuant to section 16-544 is likely to
45 substantially reduce the number of voters appearing at one or more

1 specific polling places at that election, adjacent precincts may be
 2 consolidated by combining polling places and precinct boards for that
 3 election. The board of supervisors shall ensure that a reasonable and
 4 adequate number of polling places will be designated for that election.
 5 Any consolidated polling places shall be listed in separate sections of
 6 the order or resolution of the board.

7 4. On a specific resolution of the board, the board may authorize
 8 the use of voting centers in place of or in addition to specifically
 9 designated polling places. A voting center shall allow any voter in that
 10 county to receive the appropriate ballot for that voter on election day
 11 after presenting identification as prescribed in section 16-579 and to
 12 lawfully cast the ballot. Voting centers may be established in
 13 coordination and consultation with the county recorder, at other county
 14 offices or at other locations in the county deemed appropriate.

15 ~~5. On a specific resolution of the board of supervisors that is~~
 16 ~~limited to a specific election date and that is voted on by a recorded~~
 17 ~~vote, the board may authorize the county recorder or other officer in~~
 18 ~~charge of elections to use emergency voting centers as follows:~~

19 ~~(a) The board shall specify in the resolution the location and the~~
 20 ~~hours of operation of the emergency voting centers.~~

21 ~~(b) A qualified elector voting at an emergency voting center shall~~
 22 ~~provide identification as prescribed in section 16-579, except that~~
 23 ~~notwithstanding section 16-579, subsection A, paragraph 2, for any voting~~
 24 ~~at an emergency voting center, the county recorder or other officer in~~
 25 ~~charge of elections may allow a qualified elector to update the elector's~~
 26 ~~voter registration information as provided for in the secretary of state's~~
 27 ~~instructions and procedures manual adopted pursuant to section 16-452.~~

28 ~~(c) If an emergency voting center established pursuant to this~~
 29 ~~section becomes unavailable and there is not sufficient time for the board~~
 30 ~~of supervisors to convene to approve an alternate location for that~~
 31 ~~emergency voting center, the county recorder or other officer in charge of~~
 32 ~~elections may make changes to the approved emergency voting center~~
 33 ~~location and shall notify the public and the board of supervisors~~
 34 ~~regarding that change as soon as practicable. The alternate emergency~~
 35 ~~voting center shall be as close in proximity to the approved emergency~~
 36 ~~voting center location as possible.~~

37 C. If the board fails to designate the place for holding the
 38 election, or if it cannot be held at or about the place designated, the
 39 justice of the peace in the precinct, two days before the election, by an
 40 order, copies of which the justice of the peace shall immediately post in
 41 three public places in the precinct, shall designate the place within the
 42 precinct for holding the election. If there is no justice of the peace in
 43 the precinct, or if the justice of the peace fails to do so, the election
 44 board of the precinct shall designate and give notice of the place within
 45 the precinct of holding the election. For any election in which there are

1 no candidates for elected office appearing on the ballot, the board may
2 consolidate polling places and precinct boards and may consolidate the
3 tabulation of results for that election if all of the following apply:

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

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

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

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

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

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

24 1. Space is not available at the school.

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

26 G. The board shall make available to the public as a public record
27 a list of the polling places for all precincts in which the election is to
28 be held.

29 H. Except in the case of an emergency, any facility that is used as
30 a polling place on election day or that is used as an early voting site
31 during the period of early voting shall allow persons to electioneer and
32 engage in other political activity outside of the seventy-five foot limit
33 prescribed by section 16-515 in public areas and parking lots used by
34 voters. This subsection does not allow the temporary or permanent
35 construction of structures in public areas and parking lots or the
36 blocking or other impairment of access to parking spaces for voters. The
37 county recorder or other officer in charge of elections shall post on its
38 website at least two weeks before election day a list of those polling
39 places in which emergency conditions prevent electioneering and shall
40 specify the reason the emergency designation was granted and the number of
41 attempts that were made to find a polling place before granting an
42 emergency designation. If the polling place is not on the website list of
43 polling places with emergency designations, electioneering and other
44 political activity shall be allowed outside of the seventy-five foot
45 limit. If an emergency arises after the county recorder or other officer

1 in charge of elections' initial website posting, the county recorder or
2 other officer in charge of elections shall update the website as soon as
3 is practicable to include any new polling places, shall highlight the
4 polling place location on the website and shall specify the reason the
5 emergency designation was granted and the number of attempts that were
6 made to find a polling place before granting an emergency designation.

7 I. For the purposes of this section, a county recorder or other
8 officer in charge of elections shall designate a polling place as an
9 emergency polling place and thus prohibit persons from electioneering and
10 engaging in other political activity outside of the seventy-five foot
11 limit prescribed by section 16-515 but inside the property of the facility
12 that is hosting the polling place if any of the following occurs:

13 1. An act of God renders a previously set polling place as
14 unusable.

15 2. A county recorder or other officer in charge of elections has
16 exhausted all options and there are no suitable facilities in a precinct
17 that are willing to be a polling place unless a facility can be given an
18 emergency designation.

19 J. The secretary of state shall provide through the instructions
20 and procedures manual adopted pursuant to section 16-452 the maximum
21 allowable wait time for any election that is subject to section 16-204 and
22 provide for a method to reduce voter wait time at the polls in the primary
23 and general elections. The method shall consider at least all of the
24 following for primary and general elections in each precinct:

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

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

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

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

34 Sec. 3. Section 16-542, Arizona Revised Statutes, is amended to
35 read:

36 16-542. Request for ballot; civil penalties; violation;
37 classification

38 A. Within ninety-three days before any election called pursuant to
39 the laws of this state, an elector may make a verbal or signed request to
40 the county recorder, or other officer in charge of elections for the
41 applicable political subdivision of this state in whose jurisdiction the
42 elector is registered to vote, for an official early ballot. In addition
43 to name and address, the requesting elector shall provide the date of
44 birth and state or country of birth or other information that if compared
45 to the voter registration information on file would confirm the identity

1 of the elector. If the request indicates that the elector needs a primary
2 election ballot and a general election ballot, the county recorder or
3 other officer in charge of elections shall honor the request. For any
4 partisan primary election, if the elector is not registered as a member of
5 a political party that is entitled to continued representation on the
6 ballot pursuant to section 16-804, the elector shall designate the ballot
7 of only one of the political parties that is entitled to continued
8 representation on the ballot and the elector may receive and vote the
9 ballot of only that one political party, which also shall include any
10 nonpartisan offices and ballot questions, or the elector shall designate
11 the ballot for nonpartisan offices and ballot questions only and the
12 elector may receive and vote the ballot that contains only nonpartisan
13 offices and ballot questions. The county recorder or other officer in
14 charge of elections shall process any request for an early ballot for a
15 municipal election pursuant to this subsection. The county recorder may
16 establish on-site early voting locations at the recorder's office, which
17 shall be open and available for use beginning the same day that a county
18 begins to send out the early ballots. The county recorder may also
19 establish any other early voting locations in the county the recorder
20 deems necessary. Any on-site early voting location or other early voting
21 location shall require each elector to present identification as
22 prescribed in section 16-579 before receiving a ballot. Notwithstanding
23 section 16-579, subsection A, paragraph 2, at any on-site early voting
24 location or other early voting location the county recorder or other
25 officer in charge of elections may provide for a qualified elector to
26 update the elector's voter registration information as provided for in the
27 secretary of state's instructions and procedures manual adopted pursuant
28 to section 16-452.

29 B. Notwithstanding subsection A of this section, a request for an
30 official early ballot from an absent uniformed services voter or overseas
31 voter as defined in the uniformed and overseas citizens absentee voting
32 act ~~of 1986~~ (P.L. 99-410; 52 United States Code section 20310) or a voter
33 whose information is protected pursuant to section 16-153 that is received
34 by the county recorder or other officer in charge of elections more than
35 ninety-three days before the election is valid. If requested by the
36 absent uniformed services or overseas voter, or a voter whose information
37 is protected pursuant to section 16-153, the county recorder or other
38 officer in charge of elections shall provide to the requesting voter early
39 ballot materials through the next regularly scheduled general election for
40 federal office immediately following receipt of the request unless a
41 different period of time, which does not exceed the next two regularly
42 scheduled general elections for federal office, is designated by the
43 voter.

1 C. The county recorder or other officer in charge of elections
 2 shall mail the early ballot and the envelope for its return postage
 3 prepaid to the address provided by the requesting elector within five days
 4 after receipt of the official early ballots from the officer charged by
 5 law with the duty of preparing ballots pursuant to section 16-545, except
 6 that early ballot distribution shall not begin more than twenty-seven days
 7 before the election. If an early ballot request is received on or before
 8 the thirty-first day before the election, the early ballot shall be
 9 distributed not earlier than the twenty-seventh day before the election
 10 and not later than the twenty-fourth day before the election.

11 D. Only the elector may be in possession of that elector's unvoted
 12 early ballot. If a complete and correct request is made by the elector
 13 within twenty-seven days before the election, the mailing must be made
 14 within forty-eight hours after receipt of the request. Saturdays, Sundays
 15 and other legal holidays are excluded from the computation of the
 16 forty-eight hour period prescribed by this subsection. If a complete and
 17 correct request is made by an absent uniformed services voter or an
 18 overseas voter before the election, the regular early ballot shall be
 19 transmitted by mail, by fax or by other electronic format approved by the
 20 secretary of state within twenty-four hours after the early ballots are
 21 delivered pursuant to section 16-545, subsection B, excluding Sundays.

22 E. In order to be complete and correct and to receive an early
 23 ballot by mail, an elector's request that an early ballot be mailed to the
 24 elector's residence or temporary address must include all of the
 25 information prescribed by subsection A of this section and must be
 26 received by the county recorder or other officer in charge of elections ~~no~~
 27 NOT later than 5:00 p.m. on the eleventh day preceding the election. An
 28 elector who appears personally ~~no~~ NOT later than 5:00 p.m. on the Friday
 29 preceding the election at an on-site early voting location that is
 30 established by the county recorder or other officer in charge of elections
 31 shall be given a ballot after presenting identification as prescribed in
 32 section 16-579 and shall be permitted to vote at the on-site location.
 33 Notwithstanding section 16-579, subsection A, paragraph 2, at any on-site
 34 early voting location the county recorder or other officer in charge of
 35 elections may provide for a qualified elector to update the elector's
 36 voter registration information as provided for in the secretary of state's
 37 instructions and procedures manual adopted pursuant to section 16-452. If
 38 an elector's request to receive an early ballot is not complete and
 39 correct but complies with all other requirements of this section, the
 40 county recorder or other officer in charge of elections shall attempt to
 41 notify the elector of the deficiency of the request.

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

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

6 ~~H. As a result of experiencing an emergency between 5:00 p.m. on
7 the Friday preceding the election and 5:00 p.m. on the Monday preceding
8 the election, qualified electors may request to vote in the manner
9 prescribed by the board of supervisors of their respective county. Before
10 voting pursuant to this subsection, an elector who experiences an
11 emergency shall provide identification as prescribed in section 16-579 and
12 shall sign a statement under penalty of perjury that states that the
13 person is experiencing or experienced an emergency after 5:00 p.m. on the
14 Friday immediately preceding the election and before 5:00 p.m. on the
15 Monday immediately preceding the election that would prevent the person
16 from voting at the polls. Signed statements received pursuant to this
17 subsection are not subject to inspection pursuant to title 39, chapter 1,
18 article 2. For the purposes of this subsection, "emergency" means any
19 unforeseen circumstances that would prevent the elector from voting at the
20 polls.~~

21 ~~I. Notwithstanding section 16-579, subsection A, paragraph 2, for
22 any voting pursuant to subsection H of this section, the county recorder
23 or other officer in charge of elections may allow a qualified elector to
24 update the elector's voter registration information as provided for in the
25 secretary of state's instructions and procedures manual adopted pursuant
26 to section 16-452.~~

27 ~~J.~~ H. A candidate, political committee or other organization may
28 distribute early ballot request forms to voters. If the early ballot
29 request forms include a printed address for return, the addressee shall be
30 the political subdivision that will conduct the election. Failure to use
31 the political subdivision as the return addressee is punishable by a civil
32 penalty of up to three times the cost of the production and distribution
33 of the request.

34 ~~K.~~ I. All original and completed early ballot request forms that
35 are received by a candidate, political committee or other organization
36 shall be submitted within six business days after receipt by a candidate,
37 political committee or other organization or eleven days before the
38 election day, whichever is earlier, to the political subdivision that will
39 conduct the election. Any person, political committee or other
40 organization that fails to submit a completed early ballot request form
41 within the prescribed time is subject to a civil penalty of up to \$25 per
42 day for each completed form withheld from submittal. Any person who
43 knowingly fails to submit a completed early ballot request form before the
44 submission deadline for the election immediately following the completion
45 of the form is guilty of a class 6 felony.

1 ~~+~~ J. Except for a voter who is on the active early voting list
2 prescribed by section 16-544, a voter who requests a onetime early ballot
3 pursuant to THIS section ~~16-542~~ or for an election conducted pursuant to
4 section 16-409 or article 8.1 of this chapter, a county recorder, city or
5 town clerk or other election officer may not deliver or mail an early
6 ballot to a person who has not requested an early ballot for that
7 election. An election officer who knowingly violates this subsection is
8 guilty of a class 5 felony.

9 Sec. 4. Section 16-549, Arizona Revised Statutes, is amended to
10 read:

11 16-549. Special election boards; expenses; voting procedure
12 for ill electors

13 A. The county recorder or other officer in charge of elections, for
14 the purpose of making it possible for qualified electors who are ill or
15 have a disability to vote, may appoint such number of special election
16 boards as needed. In a partisan election, each such board shall consist
17 of two members, one from each of the two political parties that cast the
18 highest number of votes in the state in the last preceding general
19 election. The county chairman of each such party shall furnish, within
20 sixty days before the election day, the county recorder or other officer
21 in charge of elections with a list of names of qualified electors within
22 the chairman's political party, and such additional lists as may be
23 required, from which the county recorder or other officer in charge of
24 elections shall appoint members to such special election boards. The
25 county recorder or other officer in charge of elections may refuse for
26 cause to appoint or may for cause remove a member of this board. A person
27 who is a candidate for an office other than precinct committeeman is not
28 eligible to serve on the special election board for that election.

29 B. Members of special election boards appointed under this section
30 shall be reimbursed for travel expenses in the manner provided by law and
31 shall also receive such compensation as the board of supervisors or the
32 governing body prescribes, all of which shall be paid by the county or
33 other political subdivision.

34 C. In lieu of the mailed early ballot procedure, any qualified
35 elector who is confined as the result of a continuing illness or physical
36 disability and is, therefore, not able to go to the polls on the day of
37 the next election and who does not wish to vote by the mailed early ballot
38 procedure, may make a verbal or a signed written request to the county
39 recorder or other officer in charge of elections to have a ballot
40 personally delivered to the elector by the special election board at the
41 elector's place of confinement within the county or other political
42 subdivision. The ballot shall be delivered to the elector in person by a
43 special election board as provided in this section. Such requests must be
44 made by 5:00 p.m. on the second Friday before the election.

1 ~~D. Qualified electors who become ill or become a person with a~~
2 ~~disability after the second Friday before the election may nevertheless~~
3 ~~request personal ballot delivery pursuant to this section, and the county~~
4 ~~recorder or other officer in charge of elections shall when possible honor~~
5 ~~such requests up to and including the last day before the election.~~
6 ~~Qualified electors who are admitted to a hospital after 5:00 p.m. on the~~
7 ~~second Friday preceding the election and before 5:00 p.m. on election day~~
8 ~~may request the county recorder or other officer in charge of elections to~~
9 ~~provide a special election board with a ballot at the elector's place of~~
10 ~~confinement. If the county recorder or other officer in charge of~~
11 ~~elections is able to accommodate the request, the voted ballot of the~~
12 ~~elector shall be sealed in an envelope and shall be processed as a~~
13 ~~provisional ballot pursuant to section 16-584. Before receiving a ballot~~
14 ~~pursuant to this subsection, a qualified elector shall provide~~
15 ~~identification as prescribed in section 16-579 and shall sign a statement~~
16 ~~under penalty of perjury that states that the person is experiencing or~~
17 ~~experienced an emergency after 5:00 p.m. on the second Friday preceding~~
18 ~~the election and before 5:00 p.m. on the Monday immediately preceding the~~
19 ~~election that would prevent the person from voting at the polls. Signed~~
20 ~~statements received pursuant to this subsection are not subject to~~
21 ~~inspection pursuant to title 39, chapter 1, article 2.~~

22 ~~E.~~ D. The manner and procedure of voting shall be as provided in
23 section 16-548, except that the marked ballot in the sealed envelope shall
24 be handed by the elector to the special election board and shall be
25 delivered by the board to the county recorder or other officer in charge
26 of elections.