

REFERENCE TITLE: **early ballot pick-up; mail return**

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

HB 2744

Introduced by
Representatives Fillmore: Barton, Burges, Nguyen, Pingerelli

AN ACT

AMENDING SECTIONS 16-411 AND 16-542, ARIZONA REVISED STATUTES; REPEALING SECTION 16-544, ARIZONA REVISED STATUTES; RELATING TO EARLY VOTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-411, Arizona Revised Statutes, is amended to
3 read:

4 16-411. Designation of election precincts and polling places;
5 electioneering; wait times

6 A. The board of supervisors of each county, on or before October 1
7 of each year preceding the year of a general election, by an order, shall
8 establish a convenient number of election precincts in the county and
9 define the boundaries of the precincts. The election precinct boundaries
10 shall be established so as to be included within election districts
11 prescribed by law for elected officers of the state and its political
12 subdivisions including community college district precincts, except those
13 elected officers provided for in titles 30 and 48.

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

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

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

29 ~~3. On a specific finding of the board that the number of persons~~
30 ~~who are listed as early voters pursuant to section 16-544 is likely to~~
31 ~~substantially reduce the number of voters appearing at one or more~~
32 ~~specific polling places at that election;~~ Adjacent precincts may be
33 consolidated by combining polling places and precinct boards for ~~that~~ AN
34 election. The board of supervisors shall ensure that a reasonable and
35 adequate number of polling places will be designated for that election.
36 Any consolidated polling places shall be listed in separate sections of
37 the order or resolution of the board.

38 ~~4. On a specific resolution of the board, the board may authorize~~
39 ~~the use of voting centers in place of or in addition to specifically~~
40 ~~designated polling places. A voting center shall allow any voter in that~~
41 ~~county to receive the appropriate ballot for that voter on election day~~
42 ~~after presenting identification as prescribed in section 16-579 and to~~
43 ~~lawfully cast the ballot. Voting centers may be established in~~
44 ~~coordination and consultation with the county recorder, at other county~~
45 ~~offices or at other locations in the county deemed appropriate.~~

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

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

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

14 ~~(c) If an emergency voting center established pursuant to this~~
15 ~~section becomes unavailable and there is not sufficient time for the board~~
16 ~~of supervisors to convene to approve an alternate location for that~~
17 ~~emergency voting center, the county recorder or other officer in charge of~~
18 ~~elections may make changes to the approved emergency voting center~~
19 ~~location and shall notify the public and the board of supervisors~~
20 ~~regarding that change as soon as practicable. The alternate emergency~~
21 ~~voting center shall be as close in proximity to the approved emergency~~
22 ~~voting center location as possible.~~

23 C. If the board fails to designate the place for holding the
24 election, or if it cannot be held at or about the place designated, the
25 justice of the peace in the precinct, two days before the election, by an
26 order, copies of which the justice of the peace shall immediately post in
27 three public places in the precinct, shall designate the place within the
28 precinct for holding the election. If there is no justice of the peace in
29 the precinct, or if the justice of the peace fails to do so, the election
30 board of the precinct shall designate and give notice of the place within
31 the precinct of holding the election. For any election in which there are
32 no candidates for elected office appearing on the ballot, the board may
33 consolidate polling places and precinct boards and may consolidate the
34 tabulation of results for that election if all of the following apply:

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

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

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

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

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

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

10 1. Space is not available at the school.

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

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

15 H. Except in the case of an emergency, any facility that is used as
16 a polling place on election day ~~or that is used as an early voting site~~
17 ~~during the period of early voting~~ shall allow persons to electioneer and
18 engage in other political activity outside of the seventy-five foot limit
19 prescribed by section 16-515 in public areas and parking lots used by
20 voters. This subsection does not allow the temporary or permanent
21 construction of structures in public areas and parking lots or the
22 blocking or other impairment of access to parking spaces for voters. The
23 county recorder or other officer in charge of elections shall post on its
24 website at least two weeks before election day a list of those polling
25 places in which emergency conditions prevent electioneering and shall
26 specify the reason the emergency designation was granted and the number of
27 attempts that were made to find a polling place before granting an
28 emergency designation. If the polling place is not on the website list of
29 polling places with emergency designations, electioneering and other
30 political activity shall be allowed outside of the seventy-five foot
31 limit. If an emergency arises after the county recorder or other officer
32 in charge of elections' initial website posting, the county recorder or
33 other officer in charge of elections shall update the website as soon as
34 is practicable to include any new polling places, shall highlight the
35 polling place location on the website and shall specify the reason the
36 emergency designation was granted and the number of attempts that were
37 made to find a polling place before granting an emergency designation.

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

44 1. An act of God renders a previously set polling place as
45 unusable.

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

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

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

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

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

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

20 Sec. 2. Section 16-542, Arizona Revised Statutes, is amended to
21 read:

22 16-542. Request for early ballot

23 A. ~~Within ninety-three days before any election called pursuant to~~
24 ~~the laws of this state, an elector may make a verbal or signed request to~~
25 ~~the county recorder, or other officer in charge of elections for the~~
26 ~~applicable political subdivision of this state in whose jurisdiction the~~
27 ~~elector is registered to vote, for an official early ballot. In addition~~
28 ~~to name and address, the requesting elector shall provide the date of~~
29 ~~birth and state or country of birth or other information that if compared~~
30 ~~to the voter registration information on file would confirm the identity~~
31 ~~of the elector. If the request indicates that the elector needs a primary~~
32 ~~election ballot and a general election ballot, the county recorder or~~
33 ~~other officer in charge of elections shall honor the request. For any~~
34 ~~partisan primary election, if the elector is not registered as a member of~~
35 ~~a political party that is entitled to continued representation on the~~
36 ~~ballot pursuant to section 16-804, the elector shall designate the ballot~~
37 ~~of only one of the political parties that is entitled to continued~~
38 ~~representation on the ballot and the elector may receive and vote the~~
39 ~~ballot of only that one political party, which also shall include any~~
40 ~~nonpartisan offices and ballot questions, or the elector shall designate~~
41 ~~the ballot for nonpartisan offices and ballot questions only and the~~
42 ~~elector may receive and vote the ballot that contains only nonpartisan~~
43 ~~offices and ballot questions. The county recorder or other officer in~~
44 ~~charge of elections shall process any request for an early ballot for a~~
45 ~~municipal election pursuant to this subsection.~~ The county recorder may

1 establish ONE on-site early voting ~~locations~~ LOCATION at the recorder's
 2 MAIN office, which shall be open and available for use beginning the same
 3 day that ~~a county begins to send out the~~ early ballots ARE AVAILABLE. The
 4 county recorder may ~~also~~ NOT establish any other early voting locations in
 5 the county ~~the recorder deems necessary~~. Any THE on-site early voting
 6 location ~~or other early voting location~~ shall require each elector to
 7 present identification as prescribed in section 16-579 before receiving a
 8 ballot. Notwithstanding section 16-579, subsection A, paragraph 2, at any
 9 on-site early voting location ~~or other early voting location~~ the county
 10 recorder or other officer in charge of elections may provide for 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 B. ~~Notwithstanding subsection A of this section,~~ A request for an
 15 official early ballot from an absent uniformed services voter or overseas
 16 voter as defined in the uniformed and overseas citizens absentee voting
 17 act ~~of 1986~~ (P.L. 99-410; 52 United States Code section 20310) ~~or a voter~~
 18 ~~whose information is protected pursuant to section 16-153~~ that is received
 19 by the county recorder or other officer in charge of elections more than
 20 ninety-three days before the election is valid. If requested by the
 21 absent uniformed services or overseas voter, ~~or a voter whose information~~
 22 ~~is protected pursuant to section 16-153,~~ the county recorder or other
 23 officer in charge of elections shall provide to the requesting ABSENT
 24 UNIFORMED SERVICES OR OVERSEAS voter early ballot materials through the
 25 next regularly scheduled general election for federal office immediately
 26 following receipt of the request unless a different period of time, which
 27 does not exceed the next two regularly scheduled general elections for
 28 federal office, is designated by the voter.

29 C. The county recorder or other officer in charge of elections
 30 shall mail the early ballot and the envelope for its return postage
 31 prepaid to the address provided by the ~~requesting~~ elector PRESCRIBED BY
 32 SUBSECTION B OF THIS SECTION within five days after receipt of the
 33 official early ballots from the officer charged by law with the duty of
 34 preparing ballots pursuant to section 16-545, except that early ballot
 35 distribution shall not begin more than twenty-seven days before the
 36 election. If an early ballot request is received PURSUANT TO SUBSECTION B
 37 OF THIS SECTION on or before the thirty-first day before the election, the
 38 early ballot shall be distributed not earlier than the twenty-seventh day
 39 before the election and not later than the twenty-fourth day before the
 40 election.

41 D. Only the elector may be in possession of that elector's unvoted
 42 early ballot. ~~If a complete and correct request is made by the elector~~
 43 ~~within twenty-seven days before the election, the mailing must be made~~
 44 ~~within forty-eight hours after receipt of the request. Saturdays, Sundays~~
 45 ~~and other legal holidays are excluded from the computation of the~~

1 ~~forty-eight hour period prescribed by this subsection.~~ If a complete and
2 correct request is made by an absent uniformed services voter or an
3 overseas voter before the election, the regular early ballot shall be
4 transmitted by mail, by fax or by other electronic format approved by the
5 secretary of state ~~within twenty-four hours after the early ballots are~~
6 ~~delivered pursuant to section 16-545, subsection B, excluding Sundays.~~

7 E. ~~In order to be complete and correct and to receive an early~~
8 ~~ballot by mail, an elector's request that an early ballot be mailed to the~~
9 ~~elector's residence or temporary address must include all of the~~
10 ~~information prescribed by subsection A of this section and must be~~
11 ~~received by the county recorder or other officer in charge of elections no~~
12 ~~later than 5:00 p.m. on the eleventh day preceding the election.~~ An
13 elector who appears personally ~~no~~ NOT later than 5:00 p.m. on the Friday
14 preceding the election at ~~an~~ THE on-site early voting location that is
15 established ~~by~~ AT THE MAIN OFFICE OF the county recorder ~~or other officer~~
16 ~~in charge of elections~~ shall be given a ballot after presenting
17 identification as prescribed in section 16-579 and shall be ~~permitted to~~
18 ~~vote at the on-site location~~ REQUIRED TO LEAVE THE ON-SITE EARLY VOTING
19 LOCATION WITH THE EARLY BALLOT AND AN ACCOMPANYING POSTAGE PREPAID
20 ENVELOPE AND RETURN THE COMPLETED EARLY BALLOT IN ITS ACCOMPANYING
21 ENVELOPE BY MAIL. Notwithstanding section 16-579, subsection A, paragraph
22 2, at ~~any~~ THE on-site early voting location the county recorder or other
23 officer in charge of elections may provide for 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. ~~If an elector's request to receive an early ballot is~~
27 ~~not complete and correct but complies with all other requirements of this~~
28 ~~section, the county recorder or other officer in charge of elections shall~~
29 ~~attempt to notify the elector of the deficiency of the request.~~ EXCEPT
30 FOR AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE
31 UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT (P.L. 99-410;
32 52 UNITED STATES CODE SECTION 20310), AN ELECTOR MAY ONLY RETURN THE VOTED
33 EARLY BALLOT BY MAIL, AND THE COUNTY RECORDER'S OFFICE MAY NOT ACCEPT A
34 VOTED EARLY BALLOT THAT IS RETURNED BY IN-PERSON DELIVERY.

35 ~~F. Unless an elector specifies that the address to which an early~~
36 ~~ballot is to be sent is a temporary address, the recorder may use the~~
37 ~~information from an early ballot request form to update voter registration~~
38 ~~records.~~

39 ~~G.~~ F. The county recorder or other officer in charge of early
40 balloting shall provide an alphabetized list of all voters in the precinct
41 who have ~~requested and have been sent~~ RECEIVED an early ballot to the
42 election board of the precinct in which the voter is registered not later
43 than the day before the election.

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

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

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

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

41 ~~L. Except for a voter who is on the active early voting list~~
42 ~~prescribed by section 16-544, a voter who requests a onetime early ballot~~
43 ~~pursuant to section 16-542 or for an election conducted pursuant to~~
44 ~~section 16-409 or article 8.1 of this chapter, a county recorder, city or~~
45 ~~town clerk or other election officer may not deliver or mail an early~~

1 ~~ballot to a person who has not requested an early ballot for that~~
2 ~~election. An election officer who knowingly violates this subsection is~~
3 ~~guilty of a class 5 felony.~~

4 Sec. 3. Repeal

5 Section 16-544, Arizona Revised Statutes, is repealed.

6 Sec. 4. Conforming legislation

7 The legislative council staff shall prepare proposed legislation
8 conforming the Arizona Revised Statutes to the provisions of this act for
9 consideration in the fifty-sixth legislature, first regular session.