

REFERENCE TITLE: election contests; procedures

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2233

Introduced by
Representatives Harris: Jones, McGarr

AN ACT

AMENDING SECTIONS 16-672, 16-676 AND 16-677, ARIZONA REVISED STATUTES;
RELATING TO ELECTION CONTESTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-672, Arizona Revised Statutes, is amended to
3 read:

4 16-672. Contest of state election; grounds; venue

5 A. Any elector of ~~the~~ THIS state may contest the election of any
6 person declared elected to a state office, or declared nominated to a
7 state office at a primary election, or the declared result of an initiated
8 or referred measure, or a proposal to amend the Constitution of Arizona,
9 or other question or proposal submitted to vote of the people, ~~upon~~ ON any
10 of the following grounds:

11 1. For misconduct on the part of election boards or any members
12 ~~thereof~~ OF ELECTION BOARDS in any of the counties of ~~the~~ THIS state, or on
13 the part of any officer making or participating in a canvass for a state
14 election.

15 2. That the person whose right to the office is contested was not
16 at the time of the election eligible ~~to~~ FOR the office.

17 3. That the person whose right is contested, or any person acting
18 for him, has given to an elector, inspector, judge or clerk of election, a
19 bribe or reward, or has offered ~~such~~ A bribe or reward for the purpose of
20 procuring his election, or has committed any other offense against the
21 elective franchise.

22 4. On account of illegal votes, INCLUDING VOTES IN WHICH THE CHAIN
23 OF CUSTODY IS BROKEN AND EARLY VOTES THAT HAVE INCONSISTENT SIGNATURES OR
24 PERSONAL INFORMATION.

25 5. That by reason of erroneous count of votes the person declared
26 elected or the initiative or referred measure, or proposal to amend the
27 constitution, or other question or proposal submitted, which has been
28 declared carried, did not in fact receive the highest number of votes for
29 the office or a sufficient number of votes to carry the measure,
30 amendment, question or proposal.

31 B. The contest may be brought in the superior court ~~of~~ IN the
32 county in which the person contesting resides or in the superior court ~~of~~
33 IN Maricopa county.

34 C. In a contest of the election of a person declared elected to a
35 state office or of an initiated or referred measure, constitutional
36 amendment, or other question or proposal, which has been declared carried,
37 the attorney general may intervene, and ~~upon~~ ON demand, the place of trial
38 of the contest shall be changed to Maricopa county, if commenced in
39 another county.

40 Sec. 2. Section 16-676, Arizona Revised Statutes, is amended to
41 read:

42 16-676. Time for hearing contest; continuance; findings of
43 the court; judgment; appeal

44 A. In any contest brought under ~~the provisions of~~ section 16-672 or
45 16-674, ~~upon~~ ON the filing of the answer, or if no answer is filed, ~~upon~~

1 ON the expiration of the time specified in the summons, the court shall
2 set a time for the hearing of the contest, not later than ~~ten~~ TWENTY days
3 after the date on which the statement of contest was filed, which may be
4 continued for not to exceed five days for good cause shown.

5 B. The court shall continue in session to hear and determine all
6 issues arising in contested elections. After hearing the proofs and
7 allegations of the parties, and within five days after the submission
8 thereof, the court shall file its findings and immediately thereafter
9 shall pronounce judgment, either confirming or annulling and setting aside
10 the election.

11 C. If in an election contest it appears that a person other than
12 the contestee has the highest number of legal votes, the court shall
13 declare that person elected and that the certificate of election of the
14 person whose office is contested is of no further legal force or effect.

15 D. ALL APPEALS OF THE FINAL JUDGMENT ISSUED PURSUANT TO SUBSECTION
16 B OF THIS SECTION SHALL BE FILED DIRECTLY IN AND HEARD BY THE SUPREME
17 COURT. AN APPEAL SHALL BE FILED WITHIN TEN DAYS AFTER ISSUANCE OF THE
18 FINAL JUDGMENT, A RESPONSE SHALL BE FILED WITHIN FIVE DAYS AFTER THE DATE
19 ON WHICH THE APPEAL IS FILED, AND A REPLY SHALL BE FILED WITHIN THREE DAYS
20 AFTER THE DATE ON WHICH THE RESPONSE IS FILED. THE SUPREME COURT SHALL
21 SCHEDULE A HEARING TO BE HELD WITHIN FIVE DAYS AFTER THE FILING DATE OF
22 THE REPLY AND SHALL RENDER A DECISION WITHIN FIVE DAYS AFTER THE DATE OF
23 THE HEARING.

24 Sec. 3. Section 16-677, Arizona Revised Statutes, is amended to
25 read:

26 16-677. Inspection of ballots before trial; petition; bond;
27 appointment of inspectors; expedited discovery

28 A. After the statement of contest has been filed and the action is
29 at issue, either party may have the ballots inspected before preparing for
30 trial.

31 B. The party applying for the inspection of ballots shall file with
32 the clerk of the court a verified petition stating that ~~he~~ THE PARTY
33 cannot properly prepare for trial without an inspection of the ballots and
34 shall file with the petition a bond, approved by the clerk, with two
35 sureties, in the principal amount of ~~three hundred dollars~~ \$300,
36 conditioned that ~~he~~ THE PARTY will pay the costs and expenses of the
37 inspection if ~~he~~ THE PARTY fails to maintain the contest. Thereupon the
38 court shall appoint three persons, one selected by each of the parties and
39 one by the court, by whom the inspection shall be made. If either party
40 fails to name a person to act in making the inspection, the court shall
41 make the appointment. AN ORGANIZATION OR ENTITY IS DEEMED A PERSON FOR
42 THE PURPOSES OF INSPECTING BALLOTS AND MAY PROVIDE FOR A ROTATING SERIES
43 OF INDIVIDUALS TO INSPECT ON BEHALF OF THE ORGANIZATION OR ENTITY.

1 C. The inspection of the ballots shall be made in the presence of
2 the legal custodian of the ballots, and the compensation of the inspectors
3 shall be fixed by the court and taxed as costs against the losing party.
4 THE PARTIES HAVE THE RIGHT TO PHYSICALLY EXAMINE ALL PHYSICAL BALLOTS AND
5 ALL PHYSICAL BALLOT IMAGES, ANY EARLY BALLOT ENVELOPES AND THE ELECTORS'
6 REGISTRATION RECORDS. THE COURT SHALL ALLOW AMPLE TIME TO THE PARTIES FOR
7 A THOROUGH EXAMINATION OF THESE MATERIALS AND SHALL NOT RESTRICT THE
8 EXAMINATION IN ANY MANNER.

9 D. THE PARTIES HAVE THE RIGHT TO FULL DISCOVERY ON ANY MATTER THAT
10 COULD PERTAIN TO THE ELECTION IN ANY WAY. THE COURTS SHALL LIBERALLY
11 CONSTRUE THIS SUBSECTION, AND THE COURT AND THE PARTIES SHALL MAKE EVERY
12 ATTEMPT NOT TO LIMIT DISCOVERY. EACH PARTY ALSO MAY DEPOSE UP TO TEN
13 PERSONS.