

House Engrossed Senate Bill

~~elections; observers; federal candidates~~
(now: federal candidates; observers; elections)

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1598

AN ACT

AMENDING SECTIONS 16-552, 16-590, 16-602 AND 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 16-552, Arizona Revised Statutes, is amended to
3 read:

4 16-552. Early ballots; processing; challenges

5 A. In a jurisdiction that uses optical scan ballots, the officer in
6 charge of elections may use the procedure prescribed by this section or
7 may request approval from the secretary of state for a different method
8 for processing early ballots. The request shall be made in writing at
9 least ninety days before the election for which the procedure is intended
10 to be used. After the election official has confirmed with the secretary
11 of state that all election equipment passes the logic and accuracy test,
12 the election official may begin to count early ballots. No early ballot
13 results may be released except as prescribed by section 16-551.

14 B. The early election board shall check the voter's affidavit on
15 the envelope containing the early ballot. If it is found to be
16 sufficient, the vote shall be allowed. If the affidavit is insufficient,
17 the vote shall not be allowed.

18 C. The county chairman of each political party represented on the
19 ballot, by written appointment addressed to the early election board, may
20 designate party representatives and alternates to act as early ballot
21 challengers for the party. ~~No~~ A party may NOT have more than the number
22 of such representatives or alternates that were mutually agreed on by each
23 political party to be present at one time. If such agreement cannot be
24 reached, the number of representatives shall be limited to one for each
25 political party AT ANY ONE TIME. A REPRESENTATIVE MAY NOT APPROACH AN
26 ELECTION OFFICIAL'S TABLE OR EQUIPMENT ANY CLOSER THAN IS REASONABLY
27 NECESSARY TO PROPERLY PERFORM THE REPRESENTATIVES' FUNCTIONS. EACH
28 REPRESENTATIVE SHALL BE ALLOWED TO OBSERVE THE CONDUCT OF ELECTION
29 OFFICIALS. REPRESENTATIVES SHALL PROVIDE THEIR OWN MATERIALS AND
30 NECESSITIES AND MAY NOT OBSTRUCT THE ADMINISTRATION OF ANY ELECTION OR
31 EARLY ELECTION BOARD PROCEDURES OR BALLOT PROCESSING. REPRESENTATIVES
32 SHALL POSE ANY QUESTIONS REGARDING PROCEDURES DIRECTLY TO THE SUPERVISOR
33 OF THE EARLY ELECTION BOARD FOR RESOLUTION. EACH REPRESENTATIVE SHALL BE
34 A REGISTERED VOTER IN THIS STATE. A CANDIDATE WHO APPEARS ON THE BALLOT
35 MAY NOT BE DESIGNATED OR ACT AS A REPRESENTATIVE.

36 D. An early ballot may be challenged on any grounds set forth in
37 section 16-591. All challenges shall be made in writing with a brief
38 statement of the grounds before the early ballot is placed in the ballot
39 box. A record of all challenges and resulting proceedings shall be kept
40 in substantially the same manner as provided in section 16-594. If an
41 early ballot is challenged, it shall be set aside and retained in the
42 possession of the early election board or other officer in charge of early
43 ballot processing until a time that the early election board sets for
44 determination of the challenge, subject to the procedure in subsection E
45 of this section, at which time the early election board shall hear the

1 grounds for the challenge and shall decide what disposition shall be made
2 of the early ballot by majority vote. If the early ballot is not allowed,
3 it shall be handled pursuant to subsection G of this section.

4 E. Within twenty-four hours ~~of receipt of~~ AFTER RECEIVING a
5 challenge, the early election board or other officer in charge of early
6 ballot processing shall mail, by first class mail, a notice of the
7 challenge including a copy of the written challenge, and also including
8 the time and place at which the voter may appear to defend the challenge,
9 to the voter at the mailing address shown on the request for an early
10 ballot or, if none was provided, to the mailing address shown on the
11 registration rolls. Notice shall also be mailed to the challenger at the
12 address listed on the written challenge and provided to the county
13 chairman of each political party represented on the ballot. The board
14 shall meet to determine the challenge at the time specified by the notice
15 but, in any event, not earlier than ninety-six hours after the notice is
16 mailed, or forty-eight hours if the notifying party chooses to deliver the
17 notice by overnight or hand delivery, and not later than 5:00 p.m. on the
18 Monday following the election. The board shall provide the voter with an
19 informal opportunity to make, or to submit, brief statements regarding the
20 challenge. The board may decline to ~~permit~~ ALLOW comments, either in
21 person or in writing, by anyone other than the voter, the challenger and
22 the party representatives. The burden of proof is on the challenger to
23 show why the voter should not be ~~permitted~~ ALLOWED to vote. The fact that
24 the voter fails to appear shall not be deemed to be an admission of the
25 validity of the challenge. The early election board or other officer in
26 charge of early ballot processing is not required to provide the notices
27 described in this subsection if the written challenge fails to set forth
28 at least one of the grounds listed in section 16-591 as a basis for the
29 challenge. In that event, the challenge will be summarily rejected at the
30 meeting of the board. Except for election contests pursuant to section
31 16-672, the board's decision is final and may not be appealed.

32 F. If the vote is allowed, the board shall open the envelope
33 containing the ballot in such a manner that the affidavit ~~thereon~~ ON THE
34 ENVELOPE is not destroyed, take out the ballot without unfolding it or
35 ~~permitting~~ ALLOWING it to be opened or examined and show by the records of
36 the election that the elector has voted.

37 G. If the vote is not allowed, the affidavit envelope containing
38 the early ballot shall not be opened and the board shall mark across the
39 face of such envelope the grounds for rejection. The affidavit envelope
40 and its contents shall then be deposited with the opened affidavit
41 envelopes and shall be preserved with official returns. If the voter does
42 not enter an appearance, the board shall send the voter a notice stating
43 whether the early ballot was disallowed and, if disallowed, providing the
44 grounds for the determination. The notice shall be mailed by first class

1 mail to the voter's mailing address as shown on the registration rolls
2 within three days after the board's determination.

3 H. Party representatives and alternates may be appointed as
4 provided in subsection C of this section to be present and to challenge
5 the verification of questioned ballots pursuant to section 16-584 on any
6 grounds ~~permitted~~ ALLOWED by this section. Questioned ballots that are
7 challenged shall be presented to the early election board for decision
8 under the provisions of this section.

9 Sec. 2. Section 16-590, Arizona Revised Statutes, is amended to
10 read:

11 16-590. Appointment of challengers and party representatives

12 A. The county chairman of each party ~~may~~, for each precinct OR
13 VOTING CENTER, by written appointment addressed to the election board, MAY
14 designate a party agent or representative and alternates for a polling
15 place in the precinct OR A VOTING CENTER who may act as challengers for
16 the party which appointed ~~him~~ THE CHALLENGERS.

17 B. At each voting place, one challenger for each political party
18 may be present and act, but ~~no~~ A challenger may NOT enter a voting booth
19 except to mark ~~his~~ THE CHALLENGER'S OWN ballot. A CHALLENGER MAY NOT
20 APPROACH AN ELECTION OFFICIAL'S TABLE, EQUIPMENT, CHECK-IN STATIONS OR THE
21 VOTING BOOTHS ANY CLOSER THAN IS REASONABLY NECESSARY TO PROPERLY PERFORM
22 THE CHALLENGER'S FUNCTIONS. EACH CHALLENGER SHALL BE ALLOWED WITHIN THE
23 POLLING PLACE TO OBSERVE THE CONDUCT OF ELECTORS AND ELECTION OFFICIALS,
24 INCLUDING THE SETUP OF THE VOTING LOCATION BEFORE THE POLLS OPEN AND THE
25 CLOSEOUT PROCEDURES AT THE VOTING LOCATION AFTER THE POLLS CLOSE.
26 CHALLENGERS SHALL PROVIDE THEIR OWN MATERIALS AND NECESSITIES AND MAY NOT
27 OBSTRUCT THE ADMINISTRATION OF THE ELECTION OR THE VOTING PROCESS.
28 CHALLENGERS SHALL POSE ANY QUESTIONS REGARDING POLLING PLACE PROCEDURES
29 DIRECTLY TO THE INSPECTOR AT THE VOTING LOCATION OR TO THE OFFICER IN
30 CHARGE OF THE ELECTION FOR RESOLUTION. A CHALLENGER MAY NOT INTERACT WITH
31 A VOTER. A CANDIDATE WHO APPEARS ON THE BALLOT MAY NOT BE DESIGNATED OR
32 ACT AS A POLLING PLACE CHALLENGER. A CHALLENGER SHALL BE ALLOWED TO ENTER
33 AND OBSERVE IN ALL POLLING PLACES IN THE COUNTY IN WHICH THE CHALLENGER IS
34 DESIGNATED.

35 C. Not more than the number of party representatives for each party
36 ~~which were~~ WHO WERE mutually agreed ~~upon~~ ON by each political party
37 represented on the ballot shall be in the polling place at one time. If
38 such agreement cannot be reached, the number of representatives shall be
39 limited to one in the polling place at one time for each political party.

40 D. A challenger or party representative shall be a resident of this
41 state and registered to vote in this state.

1 Sec. 3. Section 16-602, Arizona Revised Statutes, is amended to
2 read:

3 16-602. Removal of ballots from ballot boxes; designated
4 margin; hand counts; vote count verification
5 committee

6 A. For any primary, special or general election in which the votes
7 are cast on an electronic voting machine or tabulator, the election judge
8 shall compare the number of votes cast as indicated on the machine or
9 tabulator with the number of votes cast as indicated on the poll list and
10 the number of provisional ballots cast and that information shall be noted
11 in a written report prepared and submitted to the officer in charge of
12 elections along with other tally reports.

13 B. For each countywide primary, special, general and presidential
14 preference election, the county officer in charge of the election shall
15 conduct a hand count at one or more secure facilities. The hand count
16 shall be conducted as prescribed by this section and in accordance with
17 hand count procedures established by the secretary of state in the
18 official instructions and procedures manual adopted pursuant to section
19 16-452. The hand count is not subject to the live video requirements of
20 section 16-621, ~~subsection D~~, but the party representatives who are
21 observing the hand count may bring their own video cameras in order to
22 record the hand count. The recording shall not interfere with the conduct
23 of the hand count and the officer in charge of the election may prohibit
24 from recording or remove from the facility persons who are taking actions
25 to disrupt the count. The sole act of recording the hand count does not
26 constitute sufficient grounds for the officer in charge of the election to
27 prohibit observers from recording or to remove them from the facility.
28 The hand count shall be conducted in the following order:

29 1. At least two percent of the precincts in that county, or two
30 precincts, whichever is greater, shall be selected at random from a pool
31 consisting of every precinct in that county. The county political party
32 ~~chairman~~ CHAIRPERSON for each political party that is entitled to
33 continued representation on the state ballot or the ~~chairman's~~
34 CHAIRPERSON'S designee shall conduct the selection of the precincts to be
35 hand counted. The precincts shall be selected by lot without the use of a
36 computer, and the order of selection by the county political party
37 ~~chairmen~~ CHAIRPERSONS shall also be by lot. The selection of the
38 precincts shall not begin until all ballots voted in the precinct polling
39 places have been delivered to the central counting center. The unofficial
40 vote totals from all precincts shall be made public before selecting the
41 precincts to be hand counted. Only the ballots cast in the polling places
42 and ballots from direct recording electronic machines shall be included in
43 the hand counts conducted pursuant to this section. Provisional ballots,
44 conditional provisional ballots and write-in votes shall not be included
45 in the hand counts and the early ballots shall be grouped separately by

1 the officer in charge of elections for purposes of a separate manual audit
2 pursuant to subsection F of this section.

3 2. The races to be counted on the ballots from the precincts that
4 were selected pursuant to paragraph 1 of this subsection for each primary,
5 special and general election shall include up to five contested races.
6 After the county recorder or other officer in charge of elections
7 separates the primary ballots by political party, the races to be counted
8 shall be determined by selecting by lot without the use of a computer from
9 those ballots as follows:

10 (a) For a general election, one statewide ballot measure, unless
11 there are no measures on the ballot.

12 (b) One contested statewide race for statewide office.

13 (c) One contested race for federal office, either United States
14 senate or United States house of representatives. If the United States
15 house of representatives race is selected, the names of the candidates may
16 vary among the sampled precincts.

17 (d) One contested race for state legislative office, either state
18 house of representatives or state senate. In either case, the names of
19 the candidates may vary among the sampled precincts.

20 (e) If there are fewer than four contested races resulting from the
21 selections made pursuant to subdivisions (a) through (d) of this ~~section~~
22 ~~PARAGRAPH~~ and if there are additional contested federal, statewide or
23 legislative races or ballot measures, additional contested races shall be
24 selected by lot not using a computer until four races have been selected
25 or until no additional contested federal, statewide or legislative races
26 or ballot measures are available for selection.

27 (f) If there are no contested races as prescribed by this
28 paragraph, a hand count shall not be conducted for that precinct for that
29 election.

30 3. For the presidential preference election, select by lot two
31 percent of the polling places designated and used pursuant to section
32 16-248 and perform the hand count of those ballots.

33 4. For the purposes of this section, a write-in candidacy in a race
34 does not constitute a contested race.

35 5. In elections in which there are candidates for president, the
36 presidential race shall be added to the four categories of hand counted
37 races.

38 6. Each county ~~chairman~~ CHAIRPERSON of a political party that is
39 entitled to continued representation on the state ballot or the ~~chairman's~~
40 ~~CHAIRPERSON'S~~ designee shall select by lot the individual races to be hand
41 counted pursuant to this section.

42 7. The county ~~chairman~~ CHAIRPERSON of each political party shall
43 designate and provide the number of election board members as designated
44 by the county officer in charge of elections who shall perform the hand
45 count under the supervision of the county officer in charge of elections.

1 For each precinct that is to be audited, the county ~~chairmen~~ CHAIRPERSONS
2 shall designate at least two board workers who are registered members of
3 any or no political party to assist with the audit. Any qualified elector
4 from this state may be a board worker without regard to party designation.
5 The county election officer shall provide for compensation for those board
6 workers, not to include travel, meal or lodging expenses. If there are
7 less than two persons for each audited precinct available to participate
8 on behalf of each recognized political party, the recorder or officer in
9 charge of elections, with the approval of at least two county party
10 chairpersons in the county in which the shortfall occurs, shall substitute
11 additional individual electors who are provided by any political party
12 from anywhere in the state without regard to party designation to conduct
13 the hand count. A county party ~~chairman~~ CHAIRPERSON shall approve only
14 those substitute electors who are provided by the county ~~chairman's~~
15 CHAIRPERSON'S political party. The political parties shall provide to the
16 recorder or officer in charge of elections in writing the names of those
17 persons intending to participate in the hand count at the audited
18 precincts not later than 5:00 p.m. on the Tuesday preceding the election.
19 If the total number of board workers provided by all parties is less than
20 four times the number of precincts to be audited, the recorder or officer
21 in charge of elections shall notify the parties of the shortage by
22 9:00 a.m. on the Wednesday preceding the election. The hand count shall
23 not proceed unless the political parties provide the recorder or officer
24 in charge of elections, in writing, a sufficient number of persons by
25 5:00 p.m. on the Thursday preceding the election and a sufficient number
26 of persons, pursuant to this paragraph, arrive to perform the hand count.
27 The recorder or officer in charge of elections may prohibit persons from
28 participating in the hand count if they are taking actions to disrupt the
29 count or are unable to perform the duties as assigned. For the hand count
30 to proceed, not more than seventy-five percent of the persons performing
31 the hand count shall be from the same political party.

32 8. If a political party is not represented by a designated
33 chairperson within a county, the state chairperson for that political
34 party, or a person designated by the state chairperson, may perform the
35 actions required by the county chairperson as specified in this section.

36 C. If the randomly selected races result in a difference in any
37 race that is less than the designated margin when compared to the
38 electronic tabulation of those same ballots, the results of the electronic
39 tabulation constitute the official count for that race. If the randomly
40 selected races result in a difference in any race that is equal to or
41 greater than the designated margin when compared to the electronic
42 tabulation of those same ballots, a second hand count of those same
43 ballots and races shall be performed. If the second hand count results in
44 a difference in any race that is less than the designated margin when
45 compared to the electronic tabulation for those same ballots, the

1 electronic tabulation constitutes the official count for that race. If
2 the second hand count results in a difference in any race that is equal to
3 or greater than the designated margin when compared to the electronic
4 tabulation for those same ballots, the hand count shall be expanded to
5 include a total of twice the original number of randomly selected
6 precincts. Those additional precincts shall be selected by lot without
7 the use of a computer.

8 D. In any expanded count of randomly selected precincts, if the
9 randomly selected precinct hand counts result in a difference in any race
10 that is equal to or greater than the designated margin when compared to
11 the electronic tabulation of those same ballots, the final hand count
12 shall be extended to include the entire jurisdiction for that race. If
13 the jurisdictional boundary for that race would include any portion of
14 more than one county, the final hand count shall not be extended into the
15 precincts of that race that are outside of the county that is conducting
16 the expanded hand count. If the expanded hand count results in a
17 difference in that race that is less than the designated margin when
18 compared to the electronic tabulation of those same ballots, the
19 electronic tabulation constitutes the official count for that race.

20 E. If a final hand count is performed for an entire jurisdiction
21 for a race, the final hand count shall be repeated for that race until a
22 hand count for that race for the entire jurisdiction results in a count
23 that is identical to one other hand count for that race for the entire
24 jurisdiction and that hand count constitutes the official count for that
25 race.

26 F. After the electronic tabulation of early ballots and at one or
27 more times selected by the ~~chairman~~ CHAIRPERSON of the political parties
28 entitled to continued representation on the ballot or the ~~chairman's~~
29 CHAIRPERSON'S designee, the ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~
30 CHAIRPERSONS' designees shall randomly select one or more batches of early
31 ballots that have been tabulated to include at least one batch from each
32 machine used for tabulating early ballots and those ballots shall be
33 securely sequestered by the county recorder or officer in charge of
34 elections along with their unofficial tally reports for a postelection
35 manual audit. The ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~ CHAIRPERSONS'
36 designees shall randomly select from those sequestered early ballots a
37 number equal to one percent of the total number of early ballots cast or
38 five thousand early ballots, whichever is less. From those randomly
39 selected early ballots, the county officer in charge of elections shall
40 conduct a manual audit of the same races that are being hand counted
41 pursuant to subsection B of this section. If the manual audit of the
42 early ballots results in a difference in any race that is equal to or
43 greater than the designated margin when compared to the electronically
44 tabulated results for those same early ballots, the manual audit shall be
45 repeated for those same early ballots. If the second manual audit results

1 in a difference in that race that is equal to or greater than the
2 designated margin when compared to the electronically tabulated results
3 for those same early ballots, the manual audit shall be expanded only for
4 that race to a number of additional early ballots equal to one percent of
5 the total early ballots cast or an additional five thousand ballots,
6 whichever is less, to be randomly selected from the batch or batches of
7 sequestered early ballots. If the expanded early ballot manual audit
8 results in a difference for that race that is equal to or greater than the
9 designated margin when compared to any of the earlier manual counts for
10 that race, the manual counts shall be repeated for that race until a
11 manual count results in a difference in that race that is less than the
12 designated margin. If at any point in the manual audit of early ballots
13 the difference between any manual count of early ballots is less than the
14 designated margin when compared to the electronic tabulation of those
15 ballots, the electronic tabulation shall be included in the canvass and no
16 further manual audit of the early ballots shall be conducted.

17 G. During any hand count of early ballots, the county officer in
18 charge of elections and election board workers shall attempt to determine
19 the intent of the voter in casting the ballot.

20 H. Notwithstanding any other law, the county officer in charge of
21 elections shall retain custody of the ballots for purposes of performing
22 any required hand counts and the officer shall provide for security for
23 those ballots.

24 I. The hand counts prescribed by this section shall begin within
25 twenty-four hours after the closing of the polls and shall be completed
26 before the canvassing of the election for that county. The results of
27 those hand counts shall be provided to the secretary of state, who shall
28 make those results publicly available on the secretary of state's website.

29 J. For any county in which a hand count has been expanded to all
30 precincts in the jurisdiction, the secretary of state shall make available
31 the escrowed source code for that county to the superior court. The
32 superior court shall appoint a special master to review the computer
33 software. The special master shall have expertise in software
34 engineering, shall not be affiliated with an election software vendor nor
35 with a candidate, shall sign and be bound by a nondisclosure agreement
36 regarding the source code itself and shall issue a public report to the
37 court and to the secretary of state regarding the special master's
38 findings on the reasons for the discrepancies. The secretary of state
39 shall consider the reports for purposes of reviewing the certification of
40 that equipment and software for use in this state.

41 K. The vote count verification committee is established in the
42 office of the secretary of state and all of the following apply:

43 1. At least thirty days before the 2006 primary election, the
44 secretary of state shall appoint seven persons to the committee, not more
45 than three of whom are members of the same political party.

1 2. Members of the committee shall have expertise in any two or more
2 of the areas of advanced mathematics, statistics, random selection
3 methods, systems operations or voting systems.

4 3. A person is not eligible to be a committee member if that person
5 has been affiliated with or received any income in the preceding five
6 years from any person or entity that provides election equipment or
7 services in this state.

8 4. The vote count verification committee shall meet and establish
9 one or more designated margins to be used in reviewing the hand counting
10 of votes as required pursuant to this section. The committee shall review
11 and consider revising the designated margins every two years for use in
12 the applicable elections. The committee shall provide the designated
13 margins to the secretary of state at least ten days before the primary
14 election and at least ten days before the general election, and the
15 secretary of state shall make that information publicly available on the
16 secretary of state's website.

17 5. Members of the vote count verification committee are not
18 eligible to receive compensation but are eligible for reimbursement of
19 expenses pursuant to title 38, chapter 4, article 2. The committee is a
20 public body and its meetings are subject to title 38, chapter 3, article
21 3.1 and its reports and records are subject to title 39, chapter 1.

22 Sec. 4. Section 16-621, Arizona Revised Statutes, is amended to
23 read:

24 16-621. Proceedings at the counting center; observers

25 A. All proceedings at the counting center shall be under the
26 direction of the board of supervisors or other officer in charge of
27 elections and shall be conducted in accordance with the approved
28 instructions and procedures manual issued pursuant to section 16-452 under
29 the observation of representatives of:

- 30 1. Each political party. ~~And~~
- 31 2. The public.

32 3. DURING THE GENERAL ELECTION ONLY, CANDIDATES FOR PRESIDENT OF
33 THE UNITED STATES, UNITED STATES SENATE AND UNITED STATES HOUSE OF
34 REPRESENTATIVES WHO HAVE BEEN DESIGNATED BY THE CANDIDATE. IF MORE THAN
35 ONE CANDIDATE PRESCRIBED BY THIS PARAGRAPH FROM EACH POLITICAL PARTY
36 REPRESENTED ON THE BALLOT DESIGNATES AN OBSERVER, A DRAW BY LOT SHALL
37 DETERMINE WHICH CANDIDATE FOR EACH POLITICAL PARTY MAY SEND AN OBSERVER.

38 B. The proceedings at the counting center may also be observed by
39 up to three additional people representing a candidate for nonpartisan
40 office, or representing a political committee in support of or in
41 opposition to a ballot measure, proposition or question. A draw by lot
42 shall determine which three groups or candidates shall have
43 representatives participate in the observation at the counting center.
44 Persons representing a candidate for nonpartisan office or persons or
45 groups representing a political committee in support of or in opposition

1 to a ballot measure, proposition or question, who are interested in
2 participating in the observation, shall notify the officer in charge of
3 elections of their desire to be included in the draw not later than
4 seventeen days before the election. After the deadline to receive
5 submissions from the interested persons or groups, but prior to fourteen
6 days before the election, the county officer in charge of elections shall
7 draw by lot, from the list of those that expressed interest, three persons
8 or groups and those selected shall be notified and allowed to observe the
9 proceedings at the counting center. If a group is selected the group may
10 alter who represents that group for different days of observation but on
11 any given observation day a selected group shall not send more than one
12 observer. A group may rotate an observer throughout the day.

13 C. OBSERVERS MAY NOT APPROACH AN ELECTION OFFICIAL'S TABLE OR
14 EQUIPMENT ANY CLOSER THAN IS REASONABLY NECESSARY TO PROPERLY PERFORM THE
15 OBSERVER'S FUNCTIONS. EACH OBSERVER SHALL BE ALLOWED TO OBSERVE THE
16 CONDUCT OF ELECTION OFFICIALS. OBSERVERS SHALL PROVIDE THEIR OWN
17 MATERIALS AND NECESSITIES AND MAY NOT OBSTRUCT THE ADMINISTRATION OF ANY
18 ELECTION OR PROCEDURE. OBSERVERS SHALL POSE ANY QUESTIONS REGARDING
19 PROCEDURES DIRECTLY TO THE SUPERVISOR AT THE COUNTING CENTER OR THE
20 OFFICER IN CHARGE OF ELECTIONS FOR RESOLUTION. EACH OBSERVER SHALL BE A
21 REGISTERED VOTER IN THIS STATE.

22 D. Only those persons who are authorized for the purpose shall
23 touch any ballot or ballot card or return. All persons who are engaged in
24 processing and counting of the ballots shall be qualified electors, shall
25 be deputized in writing and shall take an oath that they will faithfully
26 perform their assigned duties. There shall be no preferential counting of
27 ballots for the purpose of projecting the outcome of the election. If any
28 ballot, including any ballot received from early voting, is damaged or
29 defective so that it cannot properly be counted by the automatic
30 tabulating equipment, a true duplicate copy ~~shall be made~~
31 or defective ballot SHALL BE MADE in the presence of witnesses and
32 substituted for the damaged or defective ballot. All duplicate ballots
33 created pursuant to this subsection shall be clearly labeled "duplicate"
34 and shall bear a serial number that shall be recorded on the damaged or
35 defective ballot.

36 ~~B.~~ E. If the counting center automatic tabulating equipment
37 includes an electronic vote adjudication feature that has been certified
38 for use as prescribed by section 16-442 and the board of supervisors or
39 officer in charge of elections authorizes the use of this feature at the
40 counting center, all of the following apply:

41 1. The electronic vote adjudication feature shall be included in
42 the tabulation system logic and accuracy testing prescribed by section
43 16-449.

1 2. The board of supervisors or officer in charge of elections shall
2 appoint an electronic vote adjudication board that consists of two judges
3 who are overseen by an inspector, with the two judges equally divided
4 between the two largest political parties as prescribed by section 16-531,
5 subsection D to adjudicate and submit for tabulation a ballot that is read
6 by the tabulation machine as blank in order to determine if voter intent
7 is clear on a portion or all of the ballot, or any portion of any ballot
8 as prescribed by section 16-610 or 16-611, or to tally write-in choices as
9 prescribed by section 16-612.

10 3. The electronic vote adjudication process used by the electronic
11 vote adjudication board shall provide for:

12 (a) A method to track and account for the original ballot and the
13 digital duplicate of the ballot created by the electronic vote
14 adjudication feature that includes a serial number on the digital image
15 that can be used to track electronic vote adjudication board actions.

16 (b) The creation and retention of comprehensive logs of all digital
17 duplication and adjudication actions performed by an electronic vote
18 adjudication board.

19 (c) The retention of the original ballot and the digital duplicate
20 of the ballot.

21 ~~E.~~ F. If for any reason it becomes impracticable to count all or a
22 part of the ballots with tabulating equipment, the officer in charge of
23 elections may direct that they be counted manually, following as far as
24 practicable the provisions governing the counting of paper ballots.

25 ~~D.~~ G. For any statewide, county or legislative election, the
26 county recorder or officer in charge of elections shall provide for a live
27 video recording of the custody of all ballots while the ballots are
28 present in a tabulation room in the counting center. The live video
29 recording shall include date and time indicators and shall be linked to
30 the secretary of state's website. The secretary of state shall post links
31 to the video coverage for viewing by the public. The county recorder or
32 officer in charge of elections shall record the video coverage of the
33 ballots at the counting center and shall retain those recordings as a
34 public record for at least as long as the challenge period for the general
35 election. If the live video feed is disrupted or disabled, the recorder
36 or officer in charge of elections is not liable for the disruption but
37 shall attempt to reinstate video coverage as soon as is practicable. Any
38 disruption in video coverage shall not affect or prevent the continued
39 tabulation of ballots. This subsection is contingent on legislative
40 appropriation.

41 ~~E.~~ H. The county recorder or other officer in charge of elections
42 shall maintain records that record the chain of custody for all election
43 equipment and ballots during early voting through the completion of
44 provisional voting tabulation.