

REFERENCE TITLE: elections; observers; federal candidates

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

SB 1598

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTIONS 16-515, 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 16-515, Arizona Revised Statutes, is amended to
3 read:

4 16-515. "Seventy-five foot limit" notices; posting;
5 violation; classification

6 A. Except as prescribed in this section and section 16-580, a
7 person shall not be allowed to remain inside the seventy-five foot limit
8 while the polls are open, except for the purpose of voting, and except the
9 election officials, one representative at any one time of each political
10 party represented on the ballot who has been appointed by the county
11 chairman of that political party, **ONE REPRESENTATIVE AT ANY ONE TIME OF**
12 **EACH CANDIDATE FOR FEDERAL OFFICE WHO HAS BEEN APPOINTED BY THE CANDIDATE**
13 and the challengers allowed by law, and ~~no~~ electioneering may **NOT** occur
14 within the seventy-five foot limit. Voters having cast their ballots
15 shall promptly move outside the seventy-five foot limit.

16 B. The board of supervisors shall furnish, with the ballots for
17 each polling place, three notices, printed in letters not less than two
18 inches high, with the heading: "Seventy-five foot limit" and underneath
19 that heading the following:

20 No person shall be allowed to remain inside these limits while
21 the polls are open, except for the purpose of voting, and
22 except the election officials, one representative at any one
23 time of each political party represented on the ballot who has
24 been appointed by the county chairman of such political party,
25 **ONE REPRESENTATIVE AT ANY ONE TIME OF EACH CANDIDATE FOR**
26 **FEDERAL OFFICE WHO HAS BEEN APPOINTED BY THE CANDIDATE** and the
27 challengers allowed by law. Voters having cast their ballots
28 shall at once retire without the seventy-five foot limit. A
29 person violating any provision of this notice is guilty of a
30 class 2 misdemeanor.

31 C. A minor voting in a simulated election at a polling place is
32 subject to the same seventy-five foot limit restrictions prescribed for a
33 voter. Persons supervising or working in a simulated election in which
34 minors vote may remain within the seventy-five foot limit of the polling
35 place. The inspector for the polling place shall exercise authority over
36 all election and simulated election related activities at the polling
37 place.

38 D. For an election that is held by an Indian tribe and that is held
39 at a polling place at the same time and on the same date as any other
40 election, the following apply:

41 1. A person who is voting is subject to the same seventy-five foot
42 limit restrictions prescribed for other voters.

1 2. An election official for the tribal election may remain within
2 the seventy-five foot limit for the polling place.

3 E. With the permission of the voter, a minor may enter and remain
4 within the seventy-five foot limit in order to accompany a voter into a
5 polling place, an on-site early voting facility and a voting booth while
6 the voter is voting.

7 F. Notwithstanding any other law, an election official, a
8 representative of a political party who has been appointed by the county
9 chairman of that political party, **A REPRESENTATIVE OF A CANDIDATE FOR**
10 **FEDERAL OFFICE WHO HAS BEEN APPOINTED BY THE CANDIDATE** or a challenger who
11 is authorized by law to be within the seventy-five foot limit as
12 prescribed by this section shall not wear, carry or display materials that
13 identify or express support for or opposition to a candidate, a political
14 party or organization, a ballot question or any other political issue and
15 shall not electioneer within the seventy-five foot limit of a polling
16 place.

17 G. Notwithstanding section 16-1018, a person may not take
18 photographs or videos while within the seventy-five foot limit.

19 H. ~~Any~~ **A** person ~~violating~~ **WHO VIOLATES** this section is guilty of a
20 class 2 misdemeanor.

21 I. For the purposes of this section, electioneering occurs when an
22 individual knowingly, intentionally, by verbal expression and in order to
23 induce or compel another person to vote in a particular manner or to
24 refrain from voting expresses support for or opposition to a candidate who
25 appears on the ballot in that election, a ballot question that appears on
26 the ballot in that election or a political party with one or more
27 candidates who appear on the ballot in that election.

28 Sec. 2. Section 16-552, Arizona Revised Statutes, is amended to
29 read:

30 **16-552. Early ballots; processing; challenges**

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

40 B. The early election board shall check the voter's affidavit on
41 the envelope containing the early ballot. If it is found to be
42 sufficient, the vote shall be allowed. If the affidavit is insufficient,
43 the vote shall not be allowed.

1 C. The county chairman of each political party represented on the
2 ballot **AND EACH CANDIDATE FOR FEDERAL OFFICE**, by written appointment
3 addressed to the early election board, may designate ~~party~~ representatives
4 and alternates to act as early ballot challengers ~~for the party~~. ~~No A~~
5 party **OR CANDIDATE FOR FEDERAL OFFICE** may **NOT** have more than the number of
6 such representatives or alternates that were mutually agreed on ~~by each~~
7 ~~political party~~ to be present at one time. If such agreement cannot be
8 reached, the number of representatives shall be limited to one for each
9 political party **OR CANDIDATE FOR FEDERAL OFFICE**.

10 D. An early ballot may be challenged on any grounds set forth in
11 section 16-591. All challenges shall be made in writing with a brief
12 statement of the grounds before the early ballot is placed in the ballot
13 box. A record of all challenges and resulting proceedings shall be kept
14 in substantially the same manner as provided in section 16-594. If an
15 early ballot is challenged, it shall be set aside and retained in the
16 possession of the early election board or other officer in charge of early
17 ballot processing until a time that the early election board sets for
18 determination of the challenge, subject to the procedure in subsection E
19 of this section, at which time the early election board shall hear the
20 grounds for the challenge and shall decide what disposition shall be made
21 of the early ballot by majority vote. If the early ballot is not allowed,
22 it shall be handled pursuant to subsection G of this section.

23 E. Within twenty-four hours ~~of receipt of~~ **AFTER RECEIVING** a
24 challenge, the early election board or other officer in charge of early
25 ballot processing shall mail, by first class mail, a notice of the
26 challenge including a copy of the written challenge, and also including
27 the time and place at which the voter may appear to defend the challenge,
28 to the voter at the mailing address shown on the request for an early
29 ballot or, if none was provided, to the mailing address shown on the
30 registration rolls. Notice shall also be mailed to the challenger at the
31 address listed on the written challenge and provided to the county
32 chairman of each political party represented on the ballot. The board
33 shall meet to determine the challenge at the time specified by the notice
34 but, in any event, not earlier than ninety-six hours after the notice is
35 mailed, or forty-eight hours if the notifying party chooses to deliver the
36 notice by overnight or hand delivery, and not later than 5:00 p.m. on the
37 Monday following the election. The board shall provide the voter with an
38 informal opportunity to make, or to submit, brief statements regarding the
39 challenge. The board may decline to ~~permit~~ **ALLOW** comments, either in
40 person or in writing, by anyone other than the voter, the challenger, ~~and~~
41 the party **AND ANY FEDERAL CANDIDATE** representatives. The burden of proof
42 is on the challenger to show why the voter should not be ~~permitted~~ **ALLOWED**
43 to vote. The fact that the voter fails to appear shall not be deemed to
44 be an admission of the validity of the challenge. The early election
45 board or other officer in charge of early ballot processing is not

1 required to provide the notices described in this subsection if the
 2 written challenge fails to set forth at least one of the grounds listed in
 3 section 16-591 as a basis for the challenge. In that event, the challenge
 4 will be summarily rejected at the meeting of the board. Except for
 5 election contests pursuant to section 16-672, the board's decision is
 6 final and may not be appealed.

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

12 G. If the vote is not allowed, the affidavit envelope containing
 13 the early ballot shall not be opened and the board shall mark across the
 14 face of such envelope the grounds for rejection. The affidavit envelope
 15 and its contents shall then be deposited with the opened affidavit
 16 envelopes and shall be preserved with official returns. If the voter does
 17 not enter an appearance, the board shall send the voter a notice stating
 18 whether the early ballot was disallowed and, if disallowed, providing the
 19 grounds for the determination. The notice shall be mailed by first class
 20 mail to the voter's mailing address as shown on the registration rolls
 21 within three days after the board's determination.

22 H. Party representatives and alternates may be appointed as
 23 provided in subsection C of this section to be present and to challenge
 24 the verification of questioned ballots pursuant to section 16-584 on any
 25 grounds permitted by this section. Questioned ballots that are challenged
 26 shall be presented to the early election board for decision under the
 27 provisions of this section.

28 Sec. 3. Section 16-590, Arizona Revised Statutes, is amended to
 29 read:

30 16-590. Appointment of challengers and party representatives

31 A. The county chairman of each party ~~may~~, **AND EACH CANDIDATE FOR**
 32 **FEDERAL OFFICE** for each precinct, by written appointment addressed to the
 33 election board, **MAY** designate a party agent or representative and
 34 alternates for a polling place in the precinct who may act as challengers
 35 for the party ~~which~~ **OR CANDIDATE FOR FEDERAL OFFICE WHO** appointed ~~him~~ **THE**
 36 **CHALLENGER**.

37 B. At each voting place, one challenger for each political party
 38 **AND ONE CHALLENGER FOR EACH CANDIDATE FOR FEDERAL OFFICE** may be present
 39 and act, but ~~no~~ **A** challenger may **NOT** enter a voting booth except to mark
 40 ~~his~~ **THE CHALLENGER'S OWN** ballot.

41 C. Not more than the number of party representatives for each party
 42 ~~which~~ **AND EACH CANDIDATE FOR FEDERAL OFFICE WHO** were mutually agreed ~~upon~~
 43 **ON** by each political party represented on the ballot **AND EACH CANDIDATE**
 44 **FOR FEDERAL OFFICE** shall be in the polling place at one time. If such
 45 agreement cannot be reached, the number of representatives shall be

1 limited to one in the polling place at one time for each political party
2 **AND ONE IN THE POLLING PLACE AT ONE TIME FOR EACH CANDIDATE FOR FEDERAL**
3 **OFFICE.**

4 D. A challenger, ~~or~~ party representative **AND REPRESENTATIVE FOR**
5 **EACH CANDIDATE FOR FEDERAL OFFICE** shall be a resident of this state and
6 registered to vote in this state.

7 Sec. 4. Section 16-602, Arizona Revised Statutes, is amended to
8 read:

9 **16-602. Removal of ballots from ballot boxes; designated**
10 **margin; hand counts; vote count verification**
11 **committee**

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

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

35 1. At least two percent of the precincts in that county, or two
36 precincts, whichever is greater, shall be selected at random from a pool
37 consisting of every precinct in that county. The county political party
38 ~~chairman~~ **CHAIRPERSON** for each political party that is entitled to
39 continued representation on the state ballot or the ~~chairman's~~
40 **CHAIRPERSON'S** designee shall conduct the selection of the precincts to be
41 hand counted. The precincts shall be selected by lot without the use of a
42 computer, and the order of selection by the county political party
43 ~~chairmen~~ **CHAIRPERSONS** shall also be by lot. The selection of the
44 precincts shall not begin until all ballots voted in the precinct polling
45 places have been delivered to the central counting center. The unofficial

1 vote totals from all precincts shall be made public before selecting the
2 precincts to be hand counted. Only the ballots cast in the polling places
3 and ballots from direct recording electronic machines shall be included in
4 the hand counts conducted pursuant to this section. Provisional ballots,
5 conditional provisional ballots and write-in votes shall not be included
6 in the hand counts and the early ballots shall be grouped separately by
7 the officer in charge of elections for purposes of a separate manual audit
8 pursuant to subsection F of this section.

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

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

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

19 (c) One contested race for federal office, either United States
20 senate or United States house of representatives. If the United States
21 house of representatives race is selected, the names of the candidates may
22 vary among the sampled precincts.

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

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

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

36 3. For the presidential preference election, select by lot two
37 percent of the polling places designated and used pursuant to section
38 16-248 and perform the hand count of those ballots.

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

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

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

5 7. The county ~~chairman~~ CHAIRPERSON of each political party shall
6 designate and provide the number of election board members as designated
7 by the county officer in charge of elections who shall perform the hand
8 count under the supervision of the county officer in charge of elections.
9 For each precinct that is to be audited, the county ~~chairmen~~ CHAIRPERSONS
10 shall designate at least two board workers who are registered members of
11 any or no political party to assist with the audit. Any qualified elector
12 from this state may be a board worker without regard to party designation.
13 The county election officer shall provide for compensation for those board
14 workers, not to include travel, meal or lodging expenses. If there are
15 less than two persons for each audited precinct available to participate
16 on behalf of each recognized political party, the recorder or officer in
17 charge of elections, with the approval of at least two county party
18 chairpersons in the county in which the shortfall occurs, shall substitute
19 additional individual electors who are provided by any political party
20 from anywhere in the state without regard to party designation to conduct
21 the hand count. A county party ~~chairman~~ CHAIRPERSON shall approve only
22 those substitute electors who are provided by the county ~~chairman's~~
23 CHAIRPERSON'S political party. The political parties shall provide to the
24 recorder or officer in charge of elections in writing the names of those
25 persons intending to participate in the hand count at the audited
26 precincts not later than 5:00 p.m. on the Tuesday preceding the election.
27 If the total number of board workers provided by all parties is less than
28 four times the number of precincts to be audited, the recorder or officer
29 in charge of elections shall notify the parties of the shortage by
30 9:00 a.m. on the Wednesday preceding the election. The hand count shall
31 not proceed unless the political parties provide the recorder or officer
32 in charge of elections, in writing, a sufficient number of persons by
33 5:00 p.m. on the Thursday preceding the election and a sufficient number
34 of persons, pursuant to this paragraph, arrive to perform the hand count.
35 The recorder or officer in charge of elections may prohibit persons from
36 participating in the hand count if they are taking actions to disrupt the
37 count or are unable to perform the duties as assigned. For the hand count
38 to proceed, not more than seventy-five percent of the persons performing
39 the hand count shall be from the same political party.

40 8. If a political party is not represented by a designated
41 chairperson within a county, the state chairperson for that political
42 party, or a person designated by the state chairperson, may perform the
43 actions required by the county chairperson as specified in this section.

1 C. If the randomly selected races result in a difference in any
2 race that is less than the designated margin when compared to the
3 electronic tabulation of those same ballots, the results of the electronic
4 tabulation constitute the official count for that race. If the randomly
5 selected races result in a difference in any race that is equal to or
6 greater than the designated margin when compared to the electronic
7 tabulation of those same ballots, a second hand count of those same
8 ballots and races shall be performed. If the second hand count results in
9 a difference in any race that is less than the designated margin when
10 compared to the electronic tabulation for those same ballots, the
11 electronic tabulation constitutes the official count for that race. If
12 the second hand count results in a difference in any race that is equal to
13 or greater than the designated margin when compared to the electronic
14 tabulation for those same ballots, the hand count shall be expanded to
15 include a total of twice the original number of randomly selected
16 precincts. Those additional precincts shall be selected by lot without
17 the use of a computer.

18 D. In any expanded count of randomly selected precincts, if the
19 randomly selected precinct hand counts result in a difference in any race
20 that is equal to or greater than the designated margin when compared to
21 the electronic tabulation of those same ballots, the final hand count
22 shall be extended to include the entire jurisdiction for that race. If
23 the jurisdictional boundary for that race would include any portion of
24 more than one county, the final hand count shall not be extended into the
25 precincts of that race that are outside of the county that is conducting
26 the expanded hand count. If the expanded hand count results in a
27 difference in that race that is less than the designated margin when
28 compared to the electronic tabulation of those same ballots, the
29 electronic tabulation constitutes the official count for that race.

30 E. If a final hand count is performed for an entire jurisdiction
31 for a race, the final hand count shall be repeated for that race until a
32 hand count for that race for the entire jurisdiction results in a count
33 that is identical to one other hand count for that race for the entire
34 jurisdiction and that hand count constitutes the official count for that
35 race.

36 F. After the electronic tabulation of early ballots and at one or
37 more times selected by the ~~chairman~~ CHAIRPERSON of the political parties
38 entitled to continued representation on the ballot or the ~~chairman's~~
39 CHAIRPERSON'S designee, the ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~
40 CHAIRPERSONS' designees shall randomly select one or more batches of early
41 ballots that have been tabulated to include at least one batch from each
42 machine used for tabulating early ballots and those ballots shall be
43 securely sequestered by the county recorder or officer in charge of
44 elections along with their unofficial tally reports for a postelection
45 manual audit. The ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~ CHAIRPERSONS'

1 designees shall randomly select from those sequestered early ballots a
2 number equal to one percent of the total number of early ballots cast or
3 five thousand early ballots, whichever is less. From those randomly
4 selected early ballots, the county officer in charge of elections shall
5 conduct a manual audit of the same races that are being hand counted
6 pursuant to subsection B of this section. If the manual audit of the
7 early ballots results in a difference in any race that is equal to or
8 greater than the designated margin when compared to the electronically
9 tabulated results for those same early ballots, the manual audit shall be
10 repeated for those same early ballots. If the second manual audit results
11 in a difference in that race that is equal to or greater than the
12 designated margin when compared to the electronically tabulated results
13 for those same early ballots, the manual audit shall be expanded only for
14 that race to a number of additional early ballots equal to one percent of
15 the total early ballots cast or an additional five thousand ballots,
16 whichever is less, to be randomly selected from the batch or batches of
17 sequestered early ballots. If the expanded early ballot manual audit
18 results in a difference for that race that is equal to or greater than the
19 designated margin when compared to any of the earlier manual counts for
20 that race, the manual counts shall be repeated for that race until a
21 manual count results in a difference in that race that is less than the
22 designated margin. If at any point in the manual audit of early ballots
23 the difference between any manual count of early ballots is less than the
24 designated margin when compared to the electronic tabulation of those
25 ballots, the electronic tabulation shall be included in the canvass and no
26 further manual audit of the early ballots shall be conducted.

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

30 H. Notwithstanding any other law, the county officer in charge of
31 elections shall retain custody of the ballots for purposes of performing
32 any required hand counts and the officer shall provide for security for
33 those ballots.

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

39 J. For any county in which a hand count has been expanded to all
40 precincts in the jurisdiction, the secretary of state shall make available
41 the escrowed source code for that county to the superior court. The
42 superior court shall appoint a special master to review the computer
43 software. The special master shall have expertise in software
44 engineering, shall not be affiliated with an election software vendor nor
45 with a candidate, shall sign and be bound by a nondisclosure agreement

1 regarding the source code itself and shall issue a public report to the
2 court and to the secretary of state regarding the special master's
3 findings on the reasons for the discrepancies. The secretary of state
4 shall consider the reports for purposes of reviewing the certification of
5 that equipment and software for use in this state.

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

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

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

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

18 4. The vote count verification committee shall meet and establish
19 one or more designated margins to be used in reviewing the hand counting
20 of votes as required pursuant to this section. The committee shall review
21 and consider revising the designated margins every two years for use in
22 the applicable elections. The committee shall provide the designated
23 margins to the secretary of state at least ten days before the primary
24 election and at least ten days before the general election, and the
25 secretary of state shall make that information publicly available on the
26 secretary of state's website.

27 5. Members of the vote count verification committee are not
28 eligible to receive compensation but are eligible for reimbursement of
29 expenses pursuant to title 38, chapter 4, article 2. The committee is a
30 public body and its meetings are subject to title 38, chapter 3, article
31 3.1 and its reports and records are subject to title 39, chapter 1.

32 Sec. 5. Section 16-621, Arizona Revised Statutes, is amended to
33 read:

34 16-621. Proceedings at the counting center; observers

35 A. All proceedings at the counting center shall be under the
36 direction of the board of supervisors or other officer in charge of
37 elections and shall be conducted in accordance with the approved
38 instructions and procedures manual issued pursuant to section 16-452 under
39 the observation of representatives of each political party, EACH CANDIDATE
40 FOR FEDERAL OFFICE and the public.

41 B. EACH POLITICAL PARTY AND EACH CANDIDATE FOR FEDERAL OFFICE MAY
42 HAVE ONE POLL OBSERVER IN EACH POLLING PLACE OR EARLY VOTING LOCATION AT
43 ANY ONE TIME DURING THE ELECTION. A POLL OBSERVER SHALL NOT APPROACH AN
44 ELECTION OFFICIAL'S TABLE OR EQUIPMENT OR THE VOTING BOOTHS ANY CLOSER
45 THAN IS REASONABLY NECESSARY TO PROPERLY PERFORM THE POLL OBSERVER'S

1 FUNCTIONS. EACH POLL OBSERVER SHALL BE ALLOWED WITHIN THE POLLING PLACE
2 OR EARLY VOTING LOCATION TO OBSERVE THE CONDUCT OF ELECTORS AND OFFICIALS,
3 INCLUDING THE SETUP OF THE VOTING LOCATION BEFORE THE POLLS OPEN AND THE
4 CLOSEOUT PROCEDURES AT THE VOTING LOCATION AFTER THE POLLS CLOSE. POLL
5 OBSERVERS SHALL PROVIDE THEIR OWN MATERIALS AND NECESSITIES AND MAY NOT
6 OBSTRUCT THE ORDERLY CONDUCT OF ANY ELECTION. POLL OBSERVERS SHALL POSE
7 ANY QUESTIONS REGARDING POLLING PLACE PROCEDURES DIRECTLY TO THE INSPECTOR
8 AT THE VOTING LOCATION OR TO THE OFFICER IN CHARGE OF THE ELECTION FOR
9 RESOLUTION. A POLL OBSERVER MAY NOT INTERACT WITH A VOTER. EACH POLL
10 OBSERVER SHALL BE A REGISTERED VOTER IN THIS STATE. A CANDIDATE WHO
11 APPEARS ON THE BALLOT MAY NOT BE DESIGNATED OR ACT AS A POLL OBSERVER. A
12 POLL OBSERVER SHALL BE ALLOWED TO ENTER AND OBSERVE IN ALL POLLING PLACES
13 AND EARLY VOTING LOCATIONS IN THE COUNTY IN WHICH THE POLL OBSERVER IS
14 DESIGNATED UNLESS THE NUMBER OF POLL OBSERVERS AT ANY ONE POLLING PLACE OR
15 EARLY VOTING LOCATION EXCEEDS THE NUMBER PRESCRIBED BY THIS SECTION.

16 C. The proceedings at the counting center may also be observed by
17 up to three additional people representing ~~a candidate for nonpartisan~~
18 ~~office, or representing~~ a political committee in support of or in
19 opposition to a ballot measure, proposition or question. A draw by lot
20 shall determine which three groups ~~or candidates~~ shall have
21 representatives participate in the observation at the counting center.
22 Persons ~~representing a candidate for nonpartisan office or persons~~ or
23 groups representing a political committee in support of or in opposition
24 to a ballot measure, proposition or question, who are interested in
25 participating in the observation, shall notify the officer in charge of
26 elections of their desire to be included in the draw not later than
27 seventeen days before the election. After the deadline to receive
28 submissions from the interested persons or groups, but prior to fourteen
29 days before the election, the county officer in charge of elections shall
30 draw by lot, from the list of those that expressed interest, three persons
31 or groups and those selected shall be notified and allowed to observe the
32 proceedings at the counting center. If a group is selected the group may
33 alter who represents that group for different days of observation but on
34 any given observation day a selected group shall not send more than one
35 observer. A group may rotate an observer throughout the day. Only those
36 persons who are authorized for the purpose shall touch any ballot or
37 ballot card or return. All persons who are engaged in processing and
38 counting of the ballots shall be qualified electors, shall be deputized in
39 writing and shall take an oath that they will faithfully perform their
40 assigned duties. There shall be no preferential counting of ballots for
41 the purpose of projecting the outcome of the election. If any ballot,
42 including any ballot received from early voting, is damaged or defective
43 so that it cannot properly be counted by the automatic tabulating
44 equipment, a true duplicate copy ~~shall be made~~
45 ballot SHALL BE MADE in the presence of witnesses and substituted for the

1 damaged or defective ballot. All duplicate ballots created pursuant to
2 this subsection shall be clearly labeled "duplicate" and shall bear a
3 serial number that shall be recorded on the damaged or defective ballot.

4 ~~B.~~ D. If the counting center automatic tabulating equipment
5 includes an electronic vote adjudication feature that has been certified
6 for use as prescribed by section 16-442 and the board of supervisors or
7 officer in charge of elections authorizes the use of this feature at the
8 counting center, all of the following apply:

9 1. The electronic vote adjudication feature shall be included in
10 the tabulation system logic and accuracy testing prescribed by section
11 16-449.

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

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

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

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

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

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

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

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

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