

Senate Engrossed

elections; parties; hand count audits

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1342

AN ACT

AMENDING SECTION 16-602, 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 16-602, Arizona Revised Statutes, is amended to
3 read:

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

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

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

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

1 in the hand counts and the early ballots shall be grouped separately by
2 the officer in charge of elections for purposes of a separate manual audit
3 pursuant to subsection F of this section.

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

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

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

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

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

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

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

31 3. For the presidential preference election, select by lot two
32 percent of the polling places designated and used pursuant to section
33 16-248 and perform the hand count of those ballots.

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

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

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

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

36 7. POLITICAL PARTY DESIGNEES WHO ARE SELECTED PURSUANT TO THIS
37 PARAGRAPH SHALL PERFORM THE HAND COUNT UNDER THE SUPERVISION OF THE COUNTY
38 OFFICER IN CHARGE OF ELECTIONS. THE COUNTY OFFICER IN CHARGE OF ELECTIONS
39 SHALL PROVIDE COMPENSATION FOR THOSE SELECTED TO PERFORM THE HAND COUNT,
40 NOT TO INCLUDE TRAVEL, MEAL OR LODGING EXPENSES. THE HAND COUNT SHALL NOT
41 PROCEED UNLESS THE POLITICAL PARTIES PROVIDE THE OFFICER IN CHARGE OF
42 ELECTIONS IN WRITING A SUFFICIENT NUMBER OF PERSONS PURSUANT TO THIS
43 PARAGRAPH BY 5:00 P.M. ON THE THURSDAY PRECEDING THE ELECTION AND A
44 SUFFICIENT NUMBER OF PERSONS PRESCRIBED BY THIS PARAGRAPH ARRIVE TO

1 PERFORM THE HAND COUNT. POLITICAL PARTY DESIGNEES SHALL BE SELECTED TO
2 PERFORM THE HAND COUNT AS FOLLOWS:

3 (a) THE COUNTY CHAIRPERSON OF EACH POLITICAL PARTY SHALL DESIGNATE
4 AND PROVIDE TO BOTH THE COUNTY OFFICER IN CHARGE OF ELECTIONS AND THE
5 STATE PARTY CHAIRPERSON THE NUMBER OF HAND COUNT BOARD MEMBERS AS
6 DESIGNATED BY THE COUNTY OFFICER IN CHARGE OF ELECTIONS. IF THE COUNTY
7 PARTY CHAIRPERSON FAILS TO DESIGNATE A SUFFICIENT NUMBER OF HAND COUNT
8 BOARD WORKERS, THE STATE PARTY CHAIRPERSON SHALL DESIGNATE QUALIFIED
9 ELECTORS TO BE HAND COUNT BOARD WORKERS. IF THE COUNTY CHAIRPERSONS AND
10 THE STATE PARTY CHAIRPERSONS FAIL TO DESIGNATE A SUFFICIENT NUMBER OF HAND
11 COUNT BOARD WORKERS, THE HIGHEST-RANKING OFFICIAL HOLDING A STATEWIDE
12 OFFICE OF EACH POLITICAL PARTY SHALL DESIGNATE QUALIFIED ELECTORS TO BE
13 HAND COUNT BOARD WORKERS. FOR THE PURPOSES OF THIS SUBDIVISION, THE
14 RANKING OF OFFICIALS HOLDING STATEWIDE OFFICE SHALL BE GOVERNOR, SECRETARY
15 OF STATE, ATTORNEY GENERAL, STATE TREASURER, SUPERINTENDENT OF PUBLIC
16 INSTRUCTION, CORPORATION COMMISSIONERS IN ORDER OF SENIORITY, MINE
17 INSPECTOR, SENATE MAJORITY AND MINORITY LEADERS AND HOUSE OF
18 REPRESENTATIVES MAJORITY AND MINORITY LEADERS.

19 (b) THE POLITICAL PARTIES SHALL PROVIDE TO THE COUNTY OFFICER IN
20 CHARGE OF ELECTIONS IN WRITING THE NAMES OF THOSE PERSONS INTENDING TO
21 PARTICIPATE IN THE HAND COUNT AT THE AUDITED PRECINCTS NOT LATER THAN
22 5:00 P.M. ON THE SECOND TUESDAY PRECEDING THE ELECTION.

23 (c) IF THE TOTAL NUMBER OF HAND COUNT BOARD WORKERS PROVIDED BY ALL
24 PARTIES IS LESS THAN THE NUMBER DESIGNATED BY THE COUNTY OFFICER IN CHARGE
25 OF ELECTIONS, THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL NOTIFY THE
26 PARTIES OF THE SHORTAGE NOT LATER THAN 9:00 A.M. ON THE SECOND WEDNESDAY
27 PRECEDING THE ELECTION AND THE POLITICAL PARTIES HAVE UNTIL 9:00 A.M. ON
28 THE SECOND THURSDAY PRECEDING THE ELECTION TO PROVIDE THE COUNTY OFFICER
29 IN CHARGE OF ELECTIONS WITH AN ADDITIONAL LIST OF QUALIFIED ELECTORS WHO
30 ARE WILLING TO PARTICIPATE IN THE HAND COUNT.

31 (d) THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL DISTRIBUTE THE
32 LIST PROVIDED PURSUANT TO SUBDIVISION (c) OF THIS PARAGRAPH TO THE COUNTY
33 CHAIRPERSON AND STATE CHAIRPERSON OF EACH RECOGNIZED POLITICAL PARTY IN
34 THE COUNTY AND STATE NOT LATER THAN 5:00 P.M. ON THE SECOND FRIDAY
35 PRECEDING THE ELECTION.

36 (e) THE SELECTION OF PERSONS TO PERFORM THE HAND COUNT SHALL ENSURE
37 THAT NOT MORE THAN SEVENTY-FIVE PERCENT OF THE PERSONS CONDUCTING THE HAND
38 COUNT ARE MEMBERS OF THE SAME POLITICAL PARTY.

39 (f) THE COUNTY RECORDER OR COUNTY OFFICER IN CHARGE OF ELECTIONS
40 MAY PROHIBIT PERSONS FROM PARTICIPATING IN THE HAND COUNT IF THE PERSONS
41 ARE TAKING ACTIONS TO DISRUPT THE COUNT OR ARE UNABLE TO PERFORM THE
42 DUTIES AS ASSIGNED.

1 8. If a political party is not represented by a designated
2 chairperson within a county, the state chairperson for that political
3 party, or a person designated by the state chairperson, may perform the
4 actions required by the county chairperson as specified in this section.

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

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

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

40 F. After the electronic tabulation of early ballots and at one or
41 more times selected by the ~~chairman~~ CHAIRPERSON of the political parties
42 entitled to continued representation on the ballot or the ~~chairman's~~
43 CHAIRPERSON'S designee, the ~~chairmen~~ CHAIRPERSONS or the ~~chairmen's~~
44 CHAIRPERSONS' designees shall randomly select one or more batches of early
45 ballots that have been tabulated to include at least one batch from each

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

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

34 H. Notwithstanding any other law, the county officer in charge of
35 elections shall retain custody of the ballots for purposes of performing
36 any required hand counts and the officer shall provide for security for
37 those ballots.

38 I. The hand counts prescribed by this section shall begin within
39 twenty-four hours after the closing of the polls and shall be completed
40 before the canvassing of the election for that county. **THE COUNTY SHALL**
41 **MAKE AVAILABLE ON THE COUNTY'S WEBSITE** the results of those hand counts
42 **AND** shall ~~be provided~~ **PROVIDE THE RESULTS** to the secretary of state, who
43 shall make those results publicly available on the secretary of state's
44 website.

1 J. For any county in which a hand count has been expanded to all
2 precincts in the jurisdiction, the secretary of state shall make available
3 the escrowed source code for that county to the superior court. The
4 superior court shall appoint a special master to review the computer
5 software. The special master shall have expertise in software
6 engineering, shall not be affiliated with an election software vendor nor
7 with a candidate, shall sign and be bound by a nondisclosure agreement
8 regarding the source code itself and shall issue a public report to the
9 court and to the secretary of state regarding the special master's
10 findings on the reasons for the discrepancies. The secretary of state
11 shall consider the reports for purposes of reviewing the certification of
12 that equipment and software for use in this state.

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

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

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

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

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

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