

REFERENCE TITLE: legislative intent; secrecy; mail voting

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2544

Introduced by
Representatives Jones: Gillette, Marshall, McGarr, Smith; Senator Wadsack

AN ACT

AMENDING TITLE 16, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTIONS 16-410.01 AND 16-410.02; 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. Title 16, chapter 4, article 1, Arizona Revised
3 Statutes, is amended by adding sections 16-410.01 and 16-410.02, to read:

4 16-410.01. Legislative intent; secret ballot

5 A. THE SANCTITY OF THE SECRET BALLOT WAS RECOGNIZED BY THE FRAMERS
6 OF THE ARIZONA CONSTITUTION AND ENSHRINED WITHIN THE ARIZONA CONSTITUTION
7 AS ARTICLE VII, SECTION 1.

8 B. THE CLEAR INTENT OF THE FRAMERS, AS DESCRIBED IN TERRITORIAL
9 LAW, WAS FOR AN ELECTION BY SECRET BALLOT. AN ELECTION BY SECRET BALLOT
10 IS AN ELECTION IN WHICH VOTERS ARE PROVIDED ABSOLUTE PROTECTION AGAINST
11 THE POSSIBILITY OF ANY OTHER PERSON KNOWING HOW THEY VOTED, ESPECIALLY
12 THOSE CLOSEST TO THEM INCLUDING FAMILY MEMBERS, FRIENDS AND COWORKERS. BY
13 MAKING IT IMPOSSIBLE FOR ANOTHER PERSON TO PROVE HOW A VOTER VOTED, THE
14 VOTERS ARE TRULY FREED TO VOTE THEIR CONSCIENCE. SECRECY IN VOTING ALSO
15 MAKES IT IMPOSSIBLE FOR OTHER PERSONS TO BUY VOTES AS THEY HAVE NO WAY TO
16 KNOW HOW A VOTER ACTUALLY VOTED.

17 C. THE SECRET BALLOT CALLS FOR THE VOTER TO ONLY BE IN POSSESSION
18 OF A BALLOT WHEN THE VOTER IS IN A PHYSICALLY PROTECTED AREA THAT MAKES IT
19 IMPOSSIBLE FOR ANY OTHER PERSON TO SEE HOW THE VOTER MARKS THE BALLOT EVEN
20 IF THE VOTER DESIRES TO SHOW IT. THIS PHYSICALLY PROTECTED AREA IS THE
21 POLLING BOOTH WITH PRIVACY CURTAIN, WITHIN A STAFFED POLLING LOCATION,
22 WITH THE BALLOTS STRICTLY CONTROLLED WITHIN THE POLLING LOCATION AND WITH
23 NO BALLOTS COMING IN OR GOING OUT. BALLOTS ARE VOTED ON-SITE, FOLDED AND
24 PLACED IN A BALLOT BOX.

25 D. SECRET BALLOT LEGISLATION WAS DRIVEN BY THE EXISTENCE OF MASSIVE
26 VOTE FRAUD IN THE UNITED STATES THAT CULMINATED IN THE STOLEN PRESIDENTIAL
27 ELECTION OF 1888, WHICH WAS STOLEN THROUGH VOTE BUYING IN THE SWING
28 STATES. BY MAKING IT IMPOSSIBLE FOR VOTERS TO PROVE HOW THEY VOTED,
29 SECRET BALLOT LEGISLATION ELIMINATED THE FRAUDULENT PRACTICE OF VOTE
30 BUYING.

31 E. THE SECRET BALLOT REQUIREMENT IN THE ARIZONA CONSTITUTION
32 NECESSARILY PRECLUDES VOTING BY MAIL, AS VOTING BY MAIL IS NOT SECRET.
33 WHEN A MAIL BALLOT IS OUTSIDE THE CONTROL OF A VOTING LOCATION AND AT A
34 VOTER'S HOME, THE VOTER IS NO LONGER PROTECTED FROM COERCION AND
35 INFLUENCE. A PERSON WHO IS THE HEAD OF A HOUSEHOLD CAN DEMAND THAT THE
36 HOUSEHOLD VOTE TOGETHER AT THE KITCHEN TABLE OR THAT ANY ADULT CHILDREN
37 ALLOW THE HEAD OF THE HOUSEHOLD TO VOTE THEIR BALLOTS SINCE THEY LIVE IN
38 THAT PERSON'S HOME. SIMILARLY, EMPLOYERS AND UNIONS CAN REQUIRE EMPLOYEES
39 TO VOTE TOGETHER. AND ONCE AGAIN, VOTE BUYERS ARE FREE TO OPERATE, AS A
40 WILLING VOTE SELLER CAN EASILY ALLOW A VOTE BUYER INTO THE VOTER'S HOME,
41 VOTE THE BALLOT IN FRONT OF THE VOTE BUYER AND COLLECT PAYMENT. MAIL
42 BALLOTS ARE NOT SECRET AND THUS ARE PRECLUDED BY THE CONSTITUTION.

43 F. IT IS THE INTENT OF THE LEGISLATURE, BOTH THEN AND NOW, THAT ANY
44 VOTING METHODS IN THIS STATE STRICTLY COMPORT AS CLOSELY AS POSSIBLE WITH
45 THE AUSTRALIAN BALLOT, WHICH PRECLUDES TO THE GREATEST EXTENT POSSIBLE THE

1 ABILITY OF ANY OTHER PERSON TO KNOW HOW A VOTER VOTED, REGARDLESS OF THE
2 VOTER'S OWN PRIVACY WISHES.
3 16-410.02. Mail voting ban; exceptions; intent
4 A. NOTWITHSTANDING ANY OTHER LAW, VOTING BY MAIL IS BANNED IN THIS
5 STATE. PERSONS WHO ARE UNABLE TO GO TO THE POLLS WILL BE PROVIDED
6 ALTERNATE MEANS OF VOTING THAT ENSURE SECRECY IN VOTING TO THE GREATEST
7 EXTENT POSSIBLE.
8 B. SUBSECTION A OF THIS SECTION DOES NOT APPLY TO PERSONS WHO ARE
9 COVERED BY THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT (P.L.
10 99-410; 52 UNITED STATES CODE SECTION 20310) AND CITIZENS OF THIS STATE
11 WHO ARE TEMPORARILY RESIDING OUT OF STATE. A BALLOT MUST NOT BE MAILED TO
12 AN ADDRESS WITHIN THIS STATE AND STRICT PROTECTIONS MUST BE IN PLACE TO
13 VERIFY THE IDENTITY OF ANYONE VOTING BY MAIL. THESE EXCEPTIONS ARE ONLY
14 PROVIDED BECAUSE THIS CLASS OF VOTERS CANNOT VOTE IN PERSON AND THE
15 LEGISLATURE HAS NO MEANS OF PROVIDING AN ALTERNATE METHOD FOR THEM TO
16 VOTE, WHICH MAINTAINS SECRECY. THE LEGISLATURE MUST PUT IN PLACE
17 ADDITIONAL MEASURES TO ENSURE AS MUCH SECRECY AS POSSIBLE FOR THESE
18 VOTERS, INCLUDING THE FOLLOWING:
19 1. CONFIRMING THAT THE PERSON IS A RESIDENT OF AND REGISTERED VOTER
20 IN THIS STATE.
21 2. ENSURING THAT THE MAILED BALLOT IS SENT TO THE CORRECT ADDRESS.
22 3. HAVING A CERTIFIED WITNESS ATTEST THAT THE VOTER VOTED IN THE
23 ABSENCE OF OTHERS AND THAT THE VOTER DID NOT SHOW ANY OTHER PERSON THE
24 VOTED BALLOT BEFORE PLACING IT IN THE ENVELOPE.