

House Engrossed

elections; ballot chain of custody

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

HOUSE BILL 2851

AN ACT

AMENDING SECTIONS 16-503, 16-564, 16-608 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 16-503, Arizona Revised Statutes, is amended to
3 read:

4 16-503. Duty to prepare and provide ballots; cost of printing
5 ballots and instruction cards as public expense

6 A. The board of supervisors, and in city and town elections, the
7 city or town clerk, shall prepare and provide ballots containing the names
8 of all persons whose certificates of nomination have been filed with them.
9 The ballots shall be printed and ready for inspection by the candidates
10 and their agents at least ten days before a general election and at least
11 five days before a city or town election. FOR EVERY BALLOT PRINTED FOR
12 ELECTIONS ADMINISTERED BY A COUNTY, THE BOARD OF SUPERVISORS SHALL PROVIDE
13 A CHAIN OF CUSTODY RECORD THAT BEGINS AT THE PRINTING LOCATION AND
14 CONTINUES THROUGH TRANSPORTATION, STORAGE AND DELIVERY TO THE COUNTY
15 RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS AND TO ANY VOTING
16 LOCATION. THE CHAIN OF CUSTODY RECORD SHALL INCLUDE THE TIME AND
17 SIGNATURE FOR EACH POINT OF CONTACT, INCLUDING THE SIGNATURE OF THE VOTING
18 LOCATION SUPERVISOR WHEN THE BALLOTS ARE RECEIVED FOR USE IN VOTING OR THE
19 SUPERVISOR WHEN EARLY BALLOTS ARE RECEIVED AND PREPARED FOR MAILING. FOR
20 UNVOTED BALLOTS THAT ARE DELIVERED TO A VOTING LOCATION THAT IS NOT
21 OCCUPIED BY AN ELECTION BOARD WORKER, THE PERSON WHO DELIVERS THE BALLOTS
22 SHALL NOTE THAT THE BALLOTS WERE DELIVERED AND SECURED WITHOUT A
23 DESIGNATED RECIPIENT.

24 B. All ballots cast in elections for public office within ~~the~~ THIS
25 state, and the cards of instruction to voters, shall be printed, delivered
26 and distributed at public expense and shall be a county charge, but when
27 used at local elections shall be a charge against the city or town in
28 which the local election is held.

29 C. For special district elections the governing body is responsible
30 for the duties and charges as provided in subsections A and B OF THIS
31 SECTION.

32 Sec. 2. Section 16-564, Arizona Revised Statutes, is amended to
33 read:

34 16-564. Opening, exhibiting and locking ballot box before
35 receipt of ballots; removal and opening of box

36 A. Before receiving any ballots the election board, in the presence
37 of the persons assembled at the polling place, shall open, exhibit and
38 lock the ballot box WITH A TAMPER EVIDENT SEAL, and thereafter ~~it~~ THE
39 BALLOT BOX shall not be removed from the polling place or presence of the
40 bystanders until all ballots are counted, ~~not~~ AND SHALL NOT BE opened
41 until after the polls are finally closed, except in the case of an
42 emergency that renders the polling place unusable to the point where it
43 can no longer function as a polling place because law enforcement or other
44 emergency personnel have ordered that the polling place be evacuated or as
45 determined by the officer in charge of elections to allow voting to

1 continue while awaiting an evacuation order from law enforcement or other
2 emergency personnel.

3 B. If a locked AND SEALED ballot box must be moved from a polling
4 place due to an emergency, at least two members of the election board from
5 that polling place who are not members of the same political party shall
6 accompany the locked AND SEALED ballot box to a new polling place
7 designated by the officer in charge of elections, subject to the
8 following:

9 1. ~~If practicable and available,~~ A law enforcement officer shall
10 aid in the transfer of the locked AND SEALED ballot box.

11 2. If two members of the election board from that polling place are
12 not available, one member of the election board and one law enforcement
13 officer may accompany the locked AND SEALED ballot box to the new polling
14 place.

15 C. If a ballot box was moved due to an emergency, two additional
16 board members shall verify whether the locked AND SEALED ballot box
17 arrived at the new polling place location and that ~~it~~ THE TAMPER EVIDENT
18 SEAL was not opened or damaged.

19 D. All election board members who accompanied the locked AND SEALED
20 ballot box to the new location and the one or two election board members
21 who verified the ballot box's arrival shall file a report with the officer
22 in charge of elections that describes the actions taken by the election
23 board members. This report shall be filed on the day of the emergency.

24 E. On the day that an emergency occurs as prescribed in subsection
25 A OF THIS SECTION, all election board members, including those who aided
26 in the transfer and verification of the locked AND SEALED ballot box,
27 shall indicate on the official documents containing their oath whether
28 they witnessed the transfer of the ballot box and whether the ballot box
29 remained locked AND SEALED.

30 F. If during the course of an election day the LOCKED AND SEALED
31 ballot box can no longer accommodate additional ballots, the board members
32 may remove a sufficient number of ballots from the ballot box and shall
33 place the removed ballots into the case that will be used for the transfer
34 of the ballots to the officer in charge of elections. The inspector and
35 both judges shall oversee the transfer and the following shall apply:

36 1. An immediate count of the number of ballots removed shall be
37 made by the election board members and a ~~street~~ CHAIN OF CUSTODY RECORD
38 indicating the count and signed by the board members supervising the count
39 shall be placed in ~~the~~ A TAMPER EVIDENT transfer case with the removed
40 ballots and shall be kept sealed for the remainder of the election day.

41 2. Once the removed ballots are sealed in the TAMPER EVIDENT
42 transfer case, the original ballot box shall be relocked and RESEALED AND
43 voting may continue.

1 3. At the close of the polls, the removed ballots and the ballots
2 in the locked **AND RESEALED** ballot box shall be moved together to the
3 tabulating place designated by the officer in charge of elections.

4 G. At the close of the polls, if a ballot box has been transferred
5 to a new polling place or a ballot box has been opened, a report detailing
6 those events, **INCLUDING THE DATE, TIME AND NAME OF ANY ELECTION OFFICER**
7 **THAT WITNESSED THE TRANSFER OR OPENING OF A BALLOT BOX**, and other
8 pertinent information shall be made by the officer in charge of elections
9 to the chairpersons of all recognized political parties in that county.

10 Sec. 3. Section 16-608, Arizona Revised Statutes, is amended to
11 read:

12 **16-608. Delivery of ballots; chain of custody**

13 A. After the close of the polls and after compliance with section
14 16-602 the members of the election board shall prepare a report in
15 duplicate of the number of voters who have voted, as indicated on the poll
16 list, and place this report in the ballot box or metal container, in which
17 the voted ballots have been placed, which thereupon shall be sealed with a
18 **TAMPER EVIDENT** numbered seal and delivered promptly by two members of the
19 election board of different political parties to the central counting
20 place or other receiving station designated by the board of supervisors or
21 officer in charge of elections, which shall not be more than fifty miles
22 from the polling place from which the ballots are delivered. The person
23 in charge of receiving ballots shall give a numbered receipt acknowledging
24 receipt of ~~such~~ **THE** ballots to the person in charge who delivers ~~such~~ **THE**
25 ballots.

26 **B. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS**
27 **SHALL PREPARE A CHAIN OF CUSTODY RECORD FOR THE TRANSPORTATION AND**
28 **DELIVERY OF ALL VOTED BALLOTS. THE CHAIN OF CUSTODY RECORD SHALL INCLUDE**
29 **THE TIME AND SIGNATURE FOR EACH POINT OF CONTACT, INCLUDING THE SIGNATURE**
30 **OF THE VOTING LOCATION SUPERVISOR WHEN THE ELECTION BOARD MEMBERS LEAVE**
31 **WITH THE VOTED BALLOTS, THE SIGNATURE OF EACH ELECTION BOARD MEMBER**
32 **DELIVERING THE VOTED BALLOTS AND THE SIGNATURE OF THE SUPERVISOR AT THE**
33 **RECEIVING SITE WHO RECEIVES THE VOTED BALLOTS.**

34 ~~B.~~ **C.** The ~~chairman~~ **CHAIRPERSON** of the county committee of each
35 political party represented on the ballot may designate a member of ~~his~~
36 **THE CHAIRPERSON'S** party to accompany the ballots from each polling place
37 to the central counting place. ~~Such~~ **THIS** party representative shall serve
38 without compensation.

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

41 **16-621. Proceedings at the counting center; report**

42 A. All proceedings at the counting center shall be under the
43 direction of the board of supervisors or other officer in charge of
44 elections and shall be conducted in accordance with the approved
45 instructions and procedures manual issued pursuant to section 16-452 under

1 the observation of representatives of each political party and the public.
2 The proceedings at the counting center may also be observed by up to three
3 additional people representing a candidate for nonpartisan office, or
4 representing a political committee in support of or in opposition to a
5 ballot measure, proposition or question. A draw by lot shall determine
6 which three groups or candidates shall have representatives participate in
7 the observation at the counting center. Persons representing a candidate
8 for nonpartisan office or persons or groups representing a political
9 committee in support of or in opposition to a ballot measure, proposition
10 or question, who are interested in participating in the observation, shall
11 notify the officer in charge of elections of their desire to be included
12 in the draw not later than seventeen days before the election. After the
13 deadline to receive submissions from the interested persons or groups, but
14 prior to fourteen days before the election, the county officer in charge
15 of elections shall draw by lot, from the list of those that expressed
16 interest, three persons or groups and those selected shall be notified and
17 allowed to observe the proceedings at the counting center. If a group is
18 selected the group may alter who represents that group for different days
19 of observation but on any given observation day a selected group shall not
20 send more than one observer. A group may rotate an observer throughout
21 the day. Only those persons who are authorized for the purpose shall
22 touch any ballot or ballot card or return. All persons who are engaged in
23 processing and counting of the ballots shall be qualified electors, shall
24 be deputized in writing and shall take an oath that they will faithfully
25 perform their assigned duties. There shall be no preferential counting of
26 ballots for the purpose of projecting the outcome of the election. If any
27 ballot, including any ballot received from early voting, is damaged or
28 defective so that it cannot properly be counted by the automatic
29 tabulating equipment, a true duplicate copy ~~shall be made~~
30 or defective ballot **SHALL BE MADE** in the presence of witnesses and
31 substituted for the damaged or defective ballot. All duplicate ballots
32 created pursuant to this subsection shall be clearly labeled "duplicate"
33 and shall bear a serial number that shall be recorded on the damaged or
34 defective ballot. **ALL DAMAGED AND DEFECTIVE BALLOTS THAT ARE REPLACED**
35 **WITH A DUPLICATE BALLOT MUST BE INCLUDED IN A CHAIN OF CUSTODY RECORD THAT**
36 **INCLUDES THE DATE, TIME, LOCATION AND SERIAL NUMBER.**

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

42 1. The electronic vote adjudication feature shall be included in
43 the tabulation system logic and accuracy testing prescribed by section
44 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 C. 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. For any statewide, county or legislative election, the county
26 recorder or officer in charge of elections shall provide for a live video
27 recording of the custody of all ballots while the ballots are present in a
28 tabulation room in the counting center **AND AT EACH STAGE OF THE SIGNATURE
29 AND AFFIDAVIT VERIFICATION PROCESS, INCLUDING EACH SIGNATURE VERIFICATION
30 WORK STATION.** The live video **AND** recording shall ~~include~~ **PROVIDE FOR FULL
31 VISIBILITY OF THE BALLOTS AND** date and time indicators and shall be linked
32 to the secretary of state's website. The secretary of state shall post
33 links to the video coverage for viewing by the public. The county
34 recorder or officer in charge of elections shall record the video coverage
35 of the ballots at the counting center and shall retain those recordings as
36 a public record for at least as long as the challenge period for the
37 general election. If the live video feed is disrupted or disabled, the
38 recorder or officer in charge of elections is not liable for the
39 disruption but shall attempt to reinstate video coverage as soon as is
40 practicable. Any disruption in video coverage shall not affect or prevent
41 the continued tabulation of ballots. This subsection is contingent on
42 legislative appropriation.

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

1 provisional voting tabulation. THE CHAIN OF CUSTODY RECORDS SHALL INCLUDE
2 THE DATE, TIME, LOCATION AND NAME OF ANY ELECTION OFFICIAL WHO HANDLES OR
3 PROCESSES A BALLOT.

4 F. THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS
5 SHALL MAINTAIN A RECORD OF ALL VOTING IRREGULARITIES THAT OCCUR DURING
6 EARLY VOTING, EMERGENCY VOTING AND ELECTION DAY VOTING. THE RECORD SHALL
7 DESCRIBE THE IRREGULARITY, THE LOCATION WHERE IT OCCURRED, THE LOCATION
8 WHERE IT WAS DISCOVERED, THE PERSONS WHO WERE PRESENT WHEN THE
9 IRREGULARITY OCCURRED AND WHEN IT WAS DISCOVERED AND ANY RESPONSE TO THE
10 IRREGULARITY FROM ELECTION OFFICIALS. WITHIN THIRTY DAYS AFTER ELECTION
11 DAY, THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS SHALL
12 PROVIDE THAT RECORD TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
13 HOUSE OF REPRESENTATIVES AND SHALL PROVIDE A COPY OF THE RECORD TO THE
14 SECRETARY OF STATE.