

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1557

AN ACT

AMENDING SECTION 16-411, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2006, CHAPTER 44, SECTION 8; AMENDING SECTIONS 16-445, 16-446, 16-535, 16-602 AND 16-663, 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 16-411, Arizona Revised Statutes, as amended by
3 Laws 2006, chapter 44, section 8, is amended to read:

4 16-411. Designation of election precincts and polling places:
5 electioneering

6 A. The board of supervisors of each county, on or before December 1 of
7 each year preceding the year of a general election, by an order, shall
8 establish a convenient number of election precincts in the county and define
9 the boundaries of the precincts. Such election precinct boundaries shall be
10 so established as included within election districts prescribed by law for
11 elected officers of the state and its political subdivisions including
12 community college district precincts, except those elected officers provided
13 for in titles 30 and 48.

14 B. Not less than twenty days before a general or primary election, and
15 at least ten days before a special election, the board shall designate one
16 polling place within each precinct where the election shall be held. Upon a
17 specific finding of the board, included in the order or resolution
18 designating polling places pursuant to this subsection, that no suitable
19 polling place is available within a precinct, a polling place for such
20 precinct may be designated within an adjacent precinct. Adjacent precincts
21 may be combined if boundaries so established are included in election
22 districts prescribed by law for state elected officials and political
23 subdivisions including community college districts but not including elected
24 officials prescribed by titles 30 and 48. The officer in charge of elections
25 may also split a precinct for administrative purposes. Any such polling
26 places shall be listed in separate sections of the order or resolution.

27 C. If the board fails to designate the place for holding the election,
28 or if it cannot be held at or about the place designated, the justice of the
29 peace in the precinct, two days before the election, by an order, copies of
30 which he shall immediately post in three public places in the precinct, shall
31 designate the place within the precinct for holding the election. If there
32 is no justice of the peace in the precinct, or if the justice of the peace
33 fails to do so, the election board of the precinct shall designate and give
34 notice of the place within the precinct of holding the election. For any
35 election in which there are no candidates for elected office appearing on the
36 ballot, the board may consolidate polling places and precinct boards and may
37 consolidate the tabulation of results for that election if all of the
38 following apply:

39 1. All affected voters are notified by mail of the change at least
40 thirty-three days before the election.

41 2. Notice of the change in polling places includes notice of the new
42 voting location, notice of the hours for voting on election day and notice of
43 the telephone number to call for voter assistance.

44 3. All affected voters receive information on early voting that
45 includes the application used to request an early voting ballot.

1 D. The board is not required to designate a polling place for special
2 district mail ballot elections held pursuant to article 8.1 of this chapter,
3 but the board may designate one or more sites for voters to deposit marked
4 ballots until 7:00 p.m. on the day of the election.

5 E. Except as provided in subsection F of this section, a public school
6 shall provide sufficient space for use as a polling place for any city,
7 county or state election when requested by the officer in charge of
8 elections.

9 F. The principal of the school may deny a request to provide space for
10 use as a polling place for any city, county or state election if, within two
11 weeks after a request has been made, he provides a written statement
12 indicating a reason the election cannot be held in the school, including any
13 of the following:

- 14 1. Space is not available at the school.
- 15 2. The safety or welfare of the children would be jeopardized.

16 G. The board shall make available to the public as a public record a
17 list of the polling places for all precincts in which the election is to be
18 held including identification of polling place changes that were submitted to
19 the United States department of justice for approval.

20 H. Except in the case of an emergency, any facility that is used as a
21 polling place on election day shall allow persons to electioneer and engage
22 in other political activity outside of the seventy-five foot limit prescribed
23 by section 16-515 in public areas and parking lots used by voters. This
24 subsection shall not be construed to permit the temporary or permanent
25 construction of structures in public areas and parking lots or the blocking
26 or other impairment of access to parking spaces for voters.

27 I. THE SECRETARY OF STATE SHALL PROVIDE THROUGH THE INSTRUCTIONS AND
28 PROCEDURES MANUAL ADOPTED PURSUANT TO SECTION 16-452 THE MAXIMUM ALLOWABLE
29 WAIT TIME FOR ANY ELECTION THAT IS SUBJECT TO SECTION 16-204 AND PROVIDE FOR
30 A METHOD TO REDUCE VOTER WAIT TIME AT THE POLLS IN THE PRIMARY AND GENERAL
31 ELECTIONS. THE METHOD SHALL CONSIDER AT LEAST ALL OF THE FOLLOWING FOR
32 PRIMARY AND GENERAL ELECTIONS IN EACH PRECINCT:

- 33 1. THE NUMBER OF BALLOTS VOTED IN THE PRIOR PRIMARY AND GENERAL
34 ELECTIONS.
- 35 2. THE NUMBER OF REGISTERED VOTERS WHO VOTED EARLY IN THE PRIOR
36 PRIMARY AND GENERAL ELECTIONS.
- 37 3. THE NUMBER OF REGISTERED VOTERS AND THE NUMBER OF REGISTERED VOTERS
38 WHO CAST AN EARLY BALLOT FOR THE CURRENT PRIMARY OR GENERAL ELECTION.
- 39 4. THE NUMBER OF ELECTION BOARD MEMBERS AND CLERKS AND THE NUMBER OF
40 ROSTERS THAT WILL REDUCE VOTER WAIT TIME AT THE POLLS.

41 Sec. 2. Section 16-445, Arizona Revised Statutes, is amended to read:
42 16-445. Filing of computer election programs with secretary of
43 state

44 A. For any state, county, school district, special district, city or
45 town election, including primary elections, utilizing vote tabulating devices

1 as provided in this article, there shall be filed with the secretary of state
2 at least ~~two weeks~~ TEN DAYS before the date of the election a copy of each
3 computer program for each election. THE SECRETARY OF STATE SHALL HOLD ALL
4 COMPUTER PROGRAM SOFTWARE FILED PURSUANT TO THIS SECTION IN ESCROW FOR THREE
5 YEARS. THE SECRETARY OF STATE SHALL SECURELY DESTROY THE SOFTWARE FILED
6 PURSUANT TO THIS SECTION ON THE EXPIRATION OF THE THREE YEAR PERIOD.

7 B. A copy of any subsequent revision of the computer program shall be
8 filed in the same manner within forty-eight hours following the revision.

9 C. Any tape or disc used in the programming or operation of a vote
10 tabulating device upon which votes are counted and any tape used in compiling
11 vote totals shall be kept under lock and seal, and if there is a retally of
12 votes, the officer entrusted with the tapes or discs shall submit his
13 affidavit stating that they are the tapes or discs, or both, used in the
14 election and have not been altered.

15 D. All materials submitted to the secretary of state shall be used by
16 the secretary of state or attorney general to preclude fraud or any unlawful
17 act under the laws of this title and title 19 and shall not be disclosed or
18 used for any other purpose.

19 E. Each program tape or disc or any other material submitted to the
20 secretary of state shall be returned to the county, city or town within six
21 months after the close of the election for which it was submitted except:

- 22 1. When a court ordered recount is pending.
- 23 2. When a restraining order is in effect.
- 24 3. When any other legal action is pending.

25 Sec. 3. Section 16-446, Arizona Revised Statutes, is amended to read:
26 16-446. Specifications of electronic voting system

27 A. An electronic voting system consisting of a voting or marking
28 device in combination with vote tabulating equipment shall provide facilities
29 for voting for candidates at both primary and general elections.

30 B. An electronic voting system shall:

- 31 1. Provide for voting in secrecy when used with voting booths.
- 32 2. Permit each elector to vote at any election for any person for any
33 office whether or not nominated as a candidate, to vote for as many persons
34 for an office as he is entitled to vote for, ~~AND~~ AND to vote for or against any
35 question ~~upon~~ ON which he is entitled to vote, and the vote tabulating
36 equipment shall reject choices recorded on his ballot card or paper ballot if
37 the number of choices exceeds the number ~~which~~ THAT he is entitled to vote
38 for the office or on the measure.

39 3. Prevent the elector from voting for the same person more than once
40 for the same office.

41 4. Be suitably designed for the purpose used, ~~AND BE~~ AND BE of durable
42 construction, and may be used safely, efficiently and accurately in the
43 conduct of elections and counting ballots.

1 5. Be provided with means for sealing the voting or marking device
2 against any further voting after the close of the polls and the last voter
3 has voted.

4 6. When properly operated, record correctly and count accurately every
5 vote cast.

6 7. Provide a DURABLE paper document ~~or ballot~~ that visually indicates
7 the voter's selections, THAT THE VOTER MAY USE TO VERIFY THE VOTER'S CHOICES,
8 THAT MAY BE SPOILED BY THE VOTER IF IT FAILS TO REFLECT THE VOTER'S CHOICES
9 AND THAT PERMITS THE VOTER TO CAST A NEW BALLOT. THIS PAPER DOCUMENT SHALL
10 BE USED IN MANUAL AUDITS AND RECOUNTS.

11 Sec. 4. Section 16-535, Arizona Revised Statutes, is amended to read:
12 16-535. Election marshal; appointment; powers and duties

13 A. The board of supervisors ~~shall~~, at the time provided in section
14 16-531, SHALL appoint a qualified voter of the precinct as election marshal.

15 B. The election marshal shall preserve order at the polls and permit
16 no violation of the election laws and for that purpose is vested with powers
17 of a constable from the opening of the polls until the count of the ballots
18 is completed. THE ELECTION MARSHAL SHALL ALSO PERIODICALLY MEASURE THE
19 LENGTH OF WAITING TIMES AT THAT POLLING PLACE THROUGHOUT THE DAY, AND IF THE
20 WAITING TIME IS THIRTY MINUTES OR MORE, THE MARSHAL SHALL INFORM THE OFFICER
21 IN CHARGE OF ELECTIONS AND SHALL REQUEST ADDITIONAL VOTING MACHINES, VOTING
22 BOOTHS AND BOARD WORKERS, AS APPROPRIATE. The election marshal may perform
23 the duties of any other election board member on a relief basis.

24 Sec. 5. Section 16-602, Arizona Revised Statutes, is amended to read:

25 16-602. Removal of ballots from ballot boxes; disposition of
26 ballots folded together or excessive ballots;
27 designated margin; hand counts; vote count
28 verification committee

29 A. The ballots cast in the election shall first be removed from the
30 ballot box and counted without being opened, except as may be necessary to
31 ascertain that the number of ballots cast corresponds with the number of
32 names on the poll lists.

33 B. If two or more ballots are found folded together appearing as a
34 single ballot, they shall be laid aside until the count of the ballots is
35 completed. If it then appears by comparison of the count with the number of
36 names on the poll lists, ~~—~~ that the ballots thus folded together were cast by
37 one elector, they shall be destroyed. If the ballots in the box are still
38 found to exceed in number the names on the poll lists, the ballots, except
39 those destroyed, shall be replaced in the box, and one of the judges ~~shall~~,
40 without looking in the box, SHALL draw therefrom, one at a time, and destroy
41 unopened, a number of ballots equal to the excess, and the election board
42 shall record on the poll lists the number of ballots so destroyed and shall
43 then sign the poll list.

1 C. FOR EACH COUNTYWIDE PRIMARY, GENERAL AND PRESIDENTIAL PREFERENCE
2 ELECTION, THE COUNTY OFFICER IN CHARGE OF THE ELECTION SHALL CONDUCT A HAND
3 COUNT AT THE CENTRAL COUNTING CENTER OF AT LEAST TWO PER CENT OF THE
4 PRECINCTS IN THAT COUNTY, OR TWO PRECINCTS, WHICHEVER IS GREATER. THE COUNTY
5 POLITICAL PARTY CHAIRMAN FOR EACH POLITICAL PARTY THAT IS ENTITLED TO
6 CONTINUED REPRESENTATION ON THE STATE BALLOT OR THE CHAIRMAN'S DESIGNEE SHALL
7 CONDUCT THE SELECTION OF THE PRECINCTS TO BE HAND COUNTED. THE PRECINCTS
8 SHALL BE SELECTED BY LOT WITHOUT THE USE OF A COMPUTER, AND THE ORDER OF
9 SELECTION BY THE COUNTY POLITICAL PARTY CHAIRMEN SHALL ALSO BE BY LOT. THE
10 SELECTION OF THE PRECINCTS SHALL NOT BEGIN UNTIL ALL BALLOTS VOTED IN THE
11 PRECINCT POLLING PLACES HAVE BEEN DELIVERED TO THE CENTRAL COUNTING CENTER.
12 THE UNOFFICIAL VOTE TOTALS FROM ALL PRECINCTS SHALL BE MADE PUBLIC BEFORE
13 SELECTING THE PRECINCTS TO BE HAND COUNTED. ONLY THE BALLOTS CAST IN THE
14 POLLING PLACES AND BALLOTS FROM DIRECT RECORDING ELECTRONIC MACHINES SHALL BE
15 INCLUDED IN THE HAND COUNTS CONDUCTED PURSUANT TO THIS SECTION. PROVISIONAL
16 BALLOTS, CONDITIONAL PROVISIONAL BALLOTS AND WRITE-IN VOTES SHALL NOT BE
17 INCLUDED IN THE HAND COUNTS AND THE EARLY BALLOTS SHALL BE GROUPED SEPARATELY
18 BY THE OFFICER IN CHARGE OF ELECTIONS FOR PURPOSES OF A SEPARATE MANUAL AUDIT
19 PURSUANT TO SUBSECTION G. THE RACES TO BE COUNTED SHALL INCLUDE AT LEAST
20 FOUR CONTESTED RACES, AND SHALL INCLUDE ONE FEDERAL RACE, ONE STATEWIDE
21 CANDIDATE RACE, ONE BALLOT MEASURE AND ONE LEGISLATIVE RACE ON THOSE BALLOTS.
22 FOR THE PURPOSES OF THIS SECTION, A WRITE-IN CANDIDACY IN A RACE DOES NOT
23 CONSTITUTE A CONTESTED RACE. IN ELECTIONS IN WHICH THERE ARE CANDIDATES FOR
24 PRESIDENT, THE PRESIDENTIAL RACE SHALL BE ADDED TO THE FOUR CATEGORIES OF
25 HAND COUNTED RACES. EACH COUNTY CHAIRMAN OF A POLITICAL PARTY THAT IS
26 ENTITLED TO CONTINUED REPRESENTATION ON THE STATE BALLOT OR THE CHAIRMAN'S
27 DESIGNEE SHALL SELECT BY LOT THE INDIVIDUAL RACES TO BE HAND COUNTED. THE
28 COUNTY CHAIRMAN OF EACH POLITICAL PARTY SHALL DESIGNATE AND PROVIDE THE
29 NUMBER OF ELECTION BOARD MEMBERS AS DESIGNATED BY THE COUNTY OFFICER IN
30 CHARGE OF ELECTIONS WHO SHALL PERFORM THE HAND COUNT UNDER THE SUPERVISION OF
31 THE COUNTY OFFICER IN CHARGE OF ELECTIONS. FOR EACH PRECINCT THAT IS TO BE
32 AUDITED, THE COUNTY CHAIRMEN SHALL DESIGNATE AT LEAST THREE BOARD WORKERS WHO
33 ARE REGISTERED MEMBERS OF ANY OR NO POLITICAL PARTY, AND THE COUNTY ELECTION
34 OFFICER SHALL PROVIDE FOR COMPENSATION FOR THOSE BOARD WORKERS. IF THE BOARD
35 WORKERS SELECTED BY THE COUNTY CHAIRMEN FAIL TO APPEAR AND PERFORM THE HAND
36 COUNT PURSUANT TO THIS SUBSECTION, NO HAND COUNT WILL BE CONDUCTED AND THE
37 ELECTRONIC TABULATION IS DEEMED THE OFFICIAL COUNT.

38 D. IF THE RANDOMLY SELECTED RACES RESULT IN A DIFFERENCE IN ANY RACE
39 THAT IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC
40 TABULATION OF THOSE SAME BALLOTS, THE RESULTS OF THE ELECTRONIC TABULATION
41 CONSTITUTE THE OFFICIAL COUNT FOR THAT RACE. IF THE RANDOMLY SELECTED RACES
42 RESULT IN A DIFFERENCE IN ANY RACE THAT IS EQUAL TO OR GREATER THAN THE
43 DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION OF THOSE SAME
44 BALLOTS, A SECOND HAND COUNT OF THOSE SAME BALLOTS AND RACES SHALL BE
45 PERFORMED. IF THE SECOND HAND COUNT RESULTS IN A DIFFERENCE IN ANY RACE THAT

1 IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION
2 FOR THOSE SAME BALLOTS, ELECTRONIC TABULATION CONSTITUTES THE OFFICIAL COUNT
3 FOR THAT RACE. IF THE SECOND HAND COUNT RESULTS IN A DIFFERENCE IN ANY RACE
4 THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE
5 ELECTRONIC TABULATION FOR THOSE SAME BALLOTS, THE HAND COUNT SHALL BE
6 EXPANDED TO INCLUDE A TOTAL OF TWICE THE ORIGINAL NUMBER OF RANDOMLY SELECTED
7 PRECINCTS. THOSE ADDITIONAL PRECINCTS SHALL BE SELECTED BY LOT WITHOUT THE
8 USE OF A COMPUTER.

9 E. IN ANY EXPANDED COUNT OF RANDOMLY SELECTED PRECINCTS, IF THE
10 RANDOMLY SELECTED PRECINCT HAND COUNTS RESULT IN A DIFFERENCE IN ANY RACE
11 THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE
12 ELECTRONIC TABULATION OF THOSE SAME BALLOTS, THE FINAL HAND COUNT SHALL BE
13 EXTENDED TO INCLUDE THE ENTIRE JURISDICTION FOR THAT RACE. IF THE
14 JURISDICTIONAL BOUNDARY FOR THAT RACE WOULD INCLUDE ANY PORTION OF MORE THAN
15 ONE COUNTY, THE FINAL HAND COUNT SHALL NOT BE EXTENDED INTO THE PRECINCTS OF
16 THAT RACE THAT ARE OUTSIDE OF THE COUNTY THAT IS CONDUCTING THE EXPANDED HAND
17 COUNT. IF THE EXPANDED HAND COUNT RESULTS IN A DIFFERENCE IN THAT RACE THAT
18 IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION
19 OF THOSE SAME BALLOTS, THE ELECTRONIC TABULATION CONSTITUTES THE OFFICIAL
20 COUNT FOR THAT RACE.

21 F. IF A FINAL HAND COUNT IS PERFORMED FOR AN ENTIRE JURISDICTION FOR A
22 RACE, THE FINAL HAND COUNT SHALL BE REPEATED FOR THAT RACE UNTIL A HAND COUNT
23 FOR THAT RACE FOR THE ENTIRE JURISDICTION RESULTS IN A COUNT THAT IS
24 IDENTICAL TO ONE OTHER HAND COUNT FOR THAT RACE FOR THE ENTIRE JURISDICTION
25 AND THAT HAND COUNT CONSTITUTES THE OFFICIAL COUNT FOR THAT RACE.

26 G. AFTER THE ELECTRONIC TABULATION OF EARLY BALLOTS AND AT ONE OR MORE
27 TIMES SELECTED BY THE CHAIRMAN OF THE POLITICAL PARTIES ENTITLED TO CONTINUED
28 REPRESENTATION ON THE BALLOT OR THE CHAIRMAN'S DESIGNEE, THE COUNTY OFFICER
29 IN CHARGE OF ELECTIONS SHALL RANDOMLY SELECT ONE OR MORE BATCHES OF EARLY
30 BALLOTS THAT HAVE BEEN TABULATED TO INCLUDE AT LEAST ONE BATCH FROM EACH
31 MACHINE USED FOR TABULATING EARLY BALLOTS AND SHALL SECURELY SEQUESTER THOSE
32 BALLOTS ALONG WITH THEIR UNOFFICIAL TALLY REPORTS FOR A POSTELECTION MANUAL
33 AUDIT. THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL RANDOMLY SELECT FROM
34 THOSE SEQUESTERED EARLY BALLOTS A NUMBER EQUAL TO ONE PER CENT OF THE TOTAL
35 NUMBER OF EARLY BALLOTS CAST OR FIVE THOUSAND EARLY BALLOTS, WHICHEVER IS
36 LESS. FROM THOSE RANDOMLY SELECTED EARLY BALLOTS, THE COUNTY OFFICER IN
37 CHARGE OF ELECTIONS SHALL CONDUCT A MANUAL AUDIT OF THE SAME RACES THAT ARE
38 BEING HAND COUNTED PURSUANT TO SUBSECTION C. IF THE MANUAL AUDIT OF THE
39 EARLY BALLOTS RESULTS IN A DIFFERENCE IN ANY RACE THAT IS EQUAL TO OR GREATER
40 THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONICALLY TABULATED
41 RESULTS FOR THOSE SAME EARLY BALLOTS, THE MANUAL AUDIT SHALL BE REPEATED FOR
42 THOSE SAME EARLY BALLOTS. IF THE SECOND MANUAL AUDIT RESULTS IN A DIFFERENCE
43 IN THAT RACE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN
44 COMPARED TO THE ELECTRONICALLY TABULATED RESULTS FOR THOSE SAME EARLY
45 BALLOTS, THE MANUAL AUDIT SHALL BE EXPANDED ONLY FOR THAT RACE TO A NUMBER OF

1 ADDITIONAL EARLY BALLOTS EQUAL TO ONE PER CENT OF THE TOTAL EARLY BALLOTS
2 CAST OR AN ADDITIONAL FIVE THOUSAND BALLOTS, WHICHEVER IS LESS, TO BE
3 RANDOMLY SELECTED FROM THE BATCH OR BATCHES OF SEQUESTERED EARLY BALLOTS. IF
4 THE EXPANDED EARLY BALLOT MANUAL AUDIT RESULTS IN A DIFFERENCE FOR THAT RACE
5 THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO ANY
6 OF THE EARLIER MANUAL COUNTS FOR THAT RACE, THE MANUAL COUNTS SHALL BE
7 REPEATED FOR THAT RACE UNTIL A MANUAL COUNT RESULTS IN A DIFFERENCE IN THAT
8 RACE THAT IS LESS THAN THE DESIGNATED MARGIN. IF AT ANY POINT IN THE MANUAL
9 AUDIT OF EARLY BALLOTS THE DIFFERENCE BETWEEN ANY MANUAL COUNT OF EARLY
10 BALLOTS IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC
11 TABULATION OF THOSE BALLOTS, THE ELECTRONIC TABULATION SHALL BE INCLUDED IN
12 THE CANVASS AND NO FURTHER MANUAL AUDIT OF THE EARLY BALLOTS SHALL BE
13 CONDUCTED.

14 H. DURING ANY HAND COUNT OF EARLY BALLOTS, THE COUNTY OFFICER IN
15 CHARGE OF ELECTIONS AND ELECTION BOARD WORKERS SHALL ATTEMPT TO DETERMINE THE
16 INTENT OF THE VOTER IN CASTING THE BALLOT.

17 I. NOTWITHSTANDING ANY OTHER LAW, THE COUNTY OFFICER IN CHARGE OF
18 ELECTIONS SHALL RETAIN CUSTODY OF THE BALLOTS FOR PURPOSES OF PERFORMING ANY
19 REQUIRED HAND COUNTS AND THE OFFICER SHALL PROVIDE FOR SECURITY FOR THOSE
20 BALLOTS.

21 J. THE HAND COUNTS PRESCRIBED BY THIS SECTION SHALL BEGIN WITHIN
22 TWENTY-FOUR HOURS AFTER THE CLOSING OF THE POLLS AND SHALL BE COMPLETED
23 BEFORE THE CANVASSING OF THE ELECTION FOR THAT COUNTY. THE RESULTS OF THOSE
24 HAND COUNTS SHALL BE PROVIDED TO THE SECRETARY OF STATE, WHO SHALL MAKE THOSE
25 RESULTS PUBLICLY AVAILABLE ON THE SECRETARY OF STATE'S WEB SITE.

26 K. FOR ANY COUNTY IN WHICH A HAND COUNT HAS BEEN EXPANDED TO ALL
27 PRECINCTS IN THE JURISDICTION, THE SECRETARY OF STATE SHALL MAKE AVAILABLE
28 THE ESCROWED SOURCE CODE FOR THAT COUNTY TO THE SUPERIOR COURT. THE SUPERIOR
29 COURT SHALL APPOINT A SPECIAL MASTER TO REVIEW THE COMPUTER SOFTWARE. THE
30 SPECIAL MASTER SHALL HAVE EXPERTISE IN SOFTWARE ENGINEERING AND SHALL NOT BE
31 AFFILIATED WITH AN ELECTION SOFTWARE VENDOR NOR WITH A CANDIDATE AND SHALL
32 SIGN AND BE BOUND BY A NONDISCLOSURE AGREEMENT REGARDING THE SOURCE CODE
33 ITSELF, AND SHALL ISSUE A PUBLIC REPORT TO THE COURT AND TO THE SECRETARY OF
34 STATE REGARDING THE SPECIAL MASTER'S FINDINGS ON THE REASONS FOR THE
35 DISCREPANCIES. THE SECRETARY OF STATE SHALL CONSIDER THE REPORTS FOR
36 PURPOSES OF REVIEWING THE CERTIFICATION OF THAT EQUIPMENT AND SOFTWARE FOR
37 USE IN THIS STATE.

38 L. THE VOTE COUNT VERIFICATION COMMITTEE IS ESTABLISHED IN THE OFFICE
39 OF THE SECRETARY OF STATE AND ALL OF THE FOLLOWING APPLY:

40 1. AT LEAST THIRTY DAYS BEFORE THE 2006 PRIMARY ELECTION, THE
41 SECRETARY OF STATE SHALL APPOINT SEVEN PERSONS TO THE COMMITTEE, NO MORE THAN
42 THREE OF WHOM ARE MEMBERS OF THE SAME POLITICAL PARTY.

43 2. MEMBERS OF THE COMMITTEE SHALL HAVE EXPERTISE IN ANY TWO OR MORE OF
44 THE AREAS OF ADVANCED MATHEMATICS, STATISTICS, RANDOM SELECTION METHODS,
45 SYSTEMS OPERATIONS OR VOTING SYSTEMS.

1 3. A PERSON IS NOT ELIGIBLE TO BE A COMMITTEE MEMBER IF THAT PERSON
2 HAS BEEN AFFILIATED WITH OR RECEIVED ANY INCOME IN THE PRECEDING FIVE YEARS
3 FROM ANY PERSON OR ENTITY THAT PROVIDES ELECTION EQUIPMENT OR SERVICES IN
4 THIS STATE.

5 4. THE VOTE COUNT VERIFICATION COMMITTEE SHALL MEET AND ESTABLISH ONE
6 OR MORE DESIGNATED MARGINS TO BE USED IN REVIEWING THE HAND COUNTING OF VOTES
7 AS REQUIRED PURSUANT TO THIS SECTION. THE COMMITTEE SHALL REVIEW AND
8 CONSIDER REVISING THE DESIGNATED MARGINS EVERY TWO YEARS FOR USE IN THE
9 APPLICABLE ELECTIONS. THE COMMITTEE SHALL PROVIDE THE DESIGNATED MARGINS TO
10 THE SECRETARY OF STATE AT LEAST TEN DAYS BEFORE THE PRIMARY ELECTION AND AT
11 LEAST TEN DAYS BEFORE THE GENERAL ELECTION, AND THE SECRETARY OF STATE SHALL
12 MAKE THAT INFORMATION PUBLICLY AVAILABLE ON THE SECRETARY OF STATE'S WEB
13 SITE.

14 5. MEMBERS OF THE VOTE COUNT VERIFICATION COMMITTEE ARE NOT ELIGIBLE
15 TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES
16 PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2. THE COMMITTEE IS A PUBLIC BODY
17 AND ITS MEETINGS ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1 AND ITS
18 REPORTS AND RECORDS ARE SUBJECT TO TITLE 39, CHAPTER 1.

19 Sec. 6. Section 16-663, Arizona Revised Statutes, is amended to read:

20 16-663. Recount of votes; method

21 A. The superior court to which the facts requiring a recount are
22 certified shall forthwith make and enter an order requiring a recount of the
23 votes cast for such office, measure or proposal. The recount shall be
24 conducted in accordance with the laws pertaining to contests of elections.

25 B. When the court orders a recount of votes which were cast and
26 tabulated on electronic voting equipment, such recount shall be pursuant to
27 section 16-664. ON COMPLETION OF THE RECOUNT, AND FOR LEGISLATIVE, STATEWIDE
28 AND FEDERAL CANDIDATE RACES ONLY, THE COUNTY CHAIRMEN OF THE POLITICAL
29 PARTIES ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT OR THE CHAIRMAN'S
30 DESIGNEE SHALL SELECT AT RANDOM WITHOUT THE USE OF A COMPUTER FIVE PER CENT
31 OF THE PRECINCTS FOR THE RECOUNTED RACE FOR A HAND COUNT, AND IF THE RESULTS
32 OF THAT HAND COUNT WHEN COMPARED TO THE ELECTRONIC TABULATION OF THAT SAME
33 RACE ARE LESS THAN THE DESIGNATED MARGINS CALCULATED PURSUANT TO SECTION
34 16-602, THE RECOUNT IS COMPLETE AND THE ELECTRONIC TABULATION IS THE OFFICIAL
35 RESULT. IF THE HAND COUNT RESULTS IN A DIFFERENCE THAT IS EQUAL TO OR
36 GREATER THAN THE DESIGNATED MARGIN FOR THAT RACE, THE PROCEDURE ESTABLISHED
37 IN SECTION 16-602, SUBSECTIONS D, E, F AND G APPLIES.

38 Sec. 7. Emergency

39 This act is an emergency measure that is necessary to preserve the
40 public peace, health or safety and is operative immediately as provided by
41 law.