



Forty-seventh Legislature - Second Regular Session

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

CHAPTER 394 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)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 16-411, Arizona Revised Statutes, as amended by Laws 2006, chapter 44, section 8, is amended to read:

16-411. Designation of election precincts and polling places; electioneering

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

B. Not less than twenty days before a general or primary election, and at least ten days before a special election, the board

shall designate one polling place within each precinct where the election shall be held. Upon a specific finding of the board, included in the order or resolution designating polling places pursuant to this subsection, that no suitable polling place is available within a precinct, a polling place for such precinct may be designated within an adjacent precinct. Adjacent precincts may be combined if boundaries so established are included in election districts prescribed by law for state elected officials and political subdivisions including community college districts but not including elected officials prescribed by titles 30 and 48. The officer in charge of elections may also split a precinct for administrative purposes. Any such polling places shall be listed in separate sections of the order or resolution.

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

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

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

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

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

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

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

1. Space is not available at the school.

2. The safety or welfare of the children would be jeopardized.

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

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

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

1. THE NUMBER OF BALLOTS VOTED IN THE PRIOR PRIMARY AND GENERAL ELECTIONS.

2. THE NUMBER OF REGISTERED VOTERS WHO VOTED EARLY IN THE PRIOR PRIMARY AND GENERAL ELECTIONS.

3. THE NUMBER OF REGISTERED VOTERS AND THE NUMBER OF REGISTERED VOTERS WHO CAST AN EARLY BALLOT FOR THE CURRENT PRIMARY OR GENERAL ELECTION.

4. THE NUMBER OF ELECTION BOARD MEMBERS AND CLERKS AND THE NUMBER OF ROSTERS THAT WILL REDUCE VOTER WAIT TIME AT THE POLLS.

Sec. 2. Section 16-445, Arizona Revised Statutes, is amended to read:

16-445. Filing of computer election programs with secretary of state

A. For any state, county, school district, special district, city or town election, including primary elections, utilizing vote tabulating devices as provided in this article, there shall be filed with the secretary of state at least ~~two-weeks~~ **TEN DAYS** before the date of the election a copy of each computer program for each election. **THE SECRETARY OF STATE SHALL HOLD ALL COMPUTER PROGRAM SOFTWARE FILED PURSUANT TO THIS SECTION IN ESCROW FOR THREE YEARS. THE SECRETARY OF STATE SHALL SECURELY DESTROY THE SOFTWARE FILED PURSUANT TO THIS SECTION ON THE EXPIRATION OF THE THREE YEAR PERIOD.**

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

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

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

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

1. When a court ordered recount is pending.

2. When a restraining order is in effect.

3. When any other legal action is pending.

Sec. 3. Section 16-446, Arizona Revised Statutes, is amended to read:

16-446. Specifications of electronic voting system

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

B. An electronic voting system shall:

1. Provide for voting in secrecy when used with voting booths.

2. Permit each elector to vote at any election for any person for any office whether or not nominated as a candidate, to vote for as many persons for an office as he is entitled to vote for; ~~AND~~ **AND** to vote for or against any question ~~upon~~ **ON** which he is entitled to vote, and the vote tabulating equipment shall reject choices recorded on his ballot card or paper ballot if the number of choices

exceeds the number ~~which~~ **THAT** he is entitled to vote for the office or on the measure.

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

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

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

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

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

Sec. 4. Section 16-535, Arizona Revised Statutes, is amended to read:

16-535. Election marshal; appointment; powers and duties

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

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

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

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

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

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

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

D. **IF THE RANDOMLY SELECTED RACES RESULT IN A DIFFERENCE IN ANY RACE THAT IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION OF THOSE SAME BALLOTS, THE RESULTS OF THE ELECTRONIC TABULATION CONSTITUTE THE OFFICIAL COUNT FOR THAT RACE. IF THE RANDOMLY SELECTED RACES RESULT IN A DIFFERENCE IN ANY RACE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION OF THOSE SAME BALLOTS, A SECOND HAND COUNT OF THOSE SAME BALLOTS AND RACES SHALL BE PERFORMED. IF THE SECOND HAND COUNT RESULTS IN A DIFFERENCE IN ANY RACE THAT IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION FOR THOSE SAME BALLOTS, ELECTRONIC TABULATION CONSTITUTES THE OFFICIAL COUNT FOR THAT RACE. IF THE SECOND HAND COUNT RESULTS IN A DIFFERENCE IN ANY RACE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION FOR THOSE SAME BALLOTS, THE HAND COUNT SHALL BE EXPANDED TO INCLUDE A TOTAL OF TWICE THE ORIGINAL NUMBER OF RANDOMLY SELECTED PRECINCTS. THOSE ADDITIONAL PRECINCTS SHALL BE SELECTED BY LOT WITHOUT THE USE OF A COMPUTER.**

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

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

G. AFTER THE ELECTRONIC TABULATION OF EARLY BALLOTS AND AT ONE OR MORE TIMES SELECTED BY THE CHAIRMAN OF THE POLITICAL PARTIES ENTITLED TO CONTINUED REPRESENTATION ON THE BALLOT OR THE CHAIRMAN'S DESIGNEE, THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL RANDOMLY SELECT ONE OR MORE BATCHES OF EARLY BALLOTS THAT HAVE BEEN TABULATED TO INCLUDE AT LEAST ONE BATCH FROM EACH MACHINE USED FOR TABULATING EARLY BALLOTS AND SHALL SECURELY SEQUESTER THOSE BALLOTS ALONG WITH THEIR UNOFFICIAL TALLY REPORTS FOR A POSTELECTION MANUAL AUDIT. THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL RANDOMLY SELECT FROM THOSE SEQUESTERED EARLY BALLOTS A NUMBER EQUAL TO ONE PER CENT OF THE TOTAL NUMBER OF EARLY BALLOTS CAST OR FIVE THOUSAND EARLY BALLOTS, WHICHEVER IS LESS. FROM THOSE RANDOMLY SELECTED EARLY BALLOTS, THE COUNTY OFFICER IN CHARGE OF ELECTIONS SHALL CONDUCT A MANUAL AUDIT OF THE SAME RACES THAT ARE BEING HAND COUNTED PURSUANT TO SUBSECTION C. IF THE MANUAL AUDIT OF THE EARLY BALLOTS RESULTS IN A DIFFERENCE IN ANY RACE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONICALLY TABULATED RESULTS FOR THOSE SAME EARLY BALLOTS, THE MANUAL AUDIT SHALL BE REPEATED FOR THOSE SAME EARLY BALLOTS. IF THE SECOND MANUAL AUDIT RESULTS IN A DIFFERENCE IN THAT RACE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONICALLY TABULATED RESULTS FOR THOSE SAME EARLY BALLOTS, THE MANUAL AUDIT SHALL BE EXPANDED ONLY FOR THAT RACE TO A NUMBER OF ADDITIONAL EARLY BALLOTS EQUAL TO ONE PER CENT OF THE TOTAL EARLY BALLOTS CAST OR AN ADDITIONAL FIVE THOUSAND BALLOTS, WHICHEVER IS LESS, TO BE RANDOMLY SELECTED FROM THE BATCH OR BATCHES OF SEQUESTERED EARLY BALLOTS. IF THE EXPANDED EARLY BALLOT MANUAL AUDIT RESULTS IN A DIFFERENCE FOR THAT RACE THAT IS EQUAL TO OR GREATER THAN THE DESIGNATED MARGIN WHEN COMPARED TO ANY OF THE EARLIER MANUAL COUNTS FOR THAT RACE, THE MANUAL COUNTS SHALL BE REPEATED FOR THAT RACE UNTIL A MANUAL COUNT RESULTS IN A DIFFERENCE IN THAT RACE THAT IS LESS THAN THE DESIGNATED MARGIN. IF AT ANY POINT IN THE MANUAL AUDIT OF EARLY BALLOTS THE DIFFERENCE BETWEEN ANY MANUAL COUNT OF EARLY BALLOTS IS LESS THAN THE DESIGNATED MARGIN WHEN COMPARED TO THE ELECTRONIC TABULATION OF THOSE BALLOTS, THE ELECTRONIC TABULATION SHALL BE INCLUDED IN THE CANVASS AND NO FURTHER MANUAL AUDIT OF THE EARLY BALLOTS SHALL BE CONDUCTED.

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

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

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

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

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

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

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

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

4. THE VOTE COUNT VERIFICATION COMMITTEE SHALL MEET AND ESTABLISH ONE OR MORE DESIGNATED MARGINS TO BE USED IN REVIEWING THE HAND COUNTING OF VOTES AS REQUIRED PURSUANT TO THIS SECTION. THE COMMITTEE SHALL REVIEW AND CONSIDER REVISING THE DESIGNATED MARGINS EVERY TWO YEARS FOR USE IN THE APPLICABLE ELECTIONS. THE COMMITTEE SHALL PROVIDE THE DESIGNATED MARGINS TO THE SECRETARY OF STATE AT LEAST TEN DAYS BEFORE THE PRIMARY ELECTION AND AT LEAST

TEN DAYS BEFORE THE GENERAL ELECTION, AND THE SECRETARY OF STATE SHALL MAKE THAT INFORMATION PUBLICLY AVAILABLE ON THE SECRETARY OF STATE'S WEB SITE.

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

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

16-663. Recount of votes; method

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

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

Sec. 7. **Emergency**

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

APPROVED BY THE GOVERNOR JUNE 28, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 28, 2006.