Arizona State Senate
Issue Paper

December 12, 2006

Note to Reader:

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ARIZONA ELECTIONS AND CANDIDATES

INTRODUCTION

There are many election and candidate areas in Arizona. This Issue Paper highlights the Voting Rights Act, Redistricting and Reapportionment, Clean Elections, the Arizona Taxpayer and Citizen Protection Act, the Help America Vote Act and Manual Audits of Election Results.

THE VOTING RIGHTS ACT

The Voting Rights Act (VRA), adopted initially in 1965 and extended in 1970, 1975, 1982 and 2006, codifies and effectuates the 15th Amendment's permanent guarantee that, throughout the nation, no person shall be denied the right to vote on account of race or color. In addition, the VRA contains several special provisions that impose even more stringent requirements in certain jurisdictions, including Arizona.

Preclearance

The VRA contains many provisions; of special importance to Arizona are sections 4 and 5. While section 2 of the VRA closely follows the language of the 15th Amendment and applies a nationwide prohibition against the denial or abridgement of the right to vote, section 4 of the VRA contains special enforcement provisions aimed at those areas of the country where Congress believes the potential for discrimination to be the greatest. Under section 5 of the VRA, jurisdictions that are covered by section 4 cannot implement any change affecting voting until the Attorney General of the United States Department of Justice (DOJ) or the United States District Court for the District of Columbia determines that the change does not have a discriminatory effect, a process commonly called "preclearance." On July 27, 2006, President George W. Bush signed the Fannie Lou Hamer, Rosa Parks and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006 (H.R. 9) that, among other things, extends section 4 and 5 of the VRA for 25 years.

A jurisdiction is a "covered" jurisdiction under section 4 and required to have all voting law changes precleared if the jurisdiction maintained a voting "test or device" as a prerequisite for voting or

registration as of specific dates and less than 50 percent of the voting aged residents in the jurisdiction were registered to vote or actually voted in the presidential election of 1964, 1968 or 1972. The entire state of Arizona is a covered jurisdiction because, prior to 1972, the state employed a "test or device" that required a person to show, in order to register to vote, that the person was able to read the Constitution of the United States in English in a manner that showed the person was neither prompted nor reciting from memory, unless the person was prevented from reading the Constitution due to a physical infirmity. While the entire state of Arizona was not a covered jurisdiction until 1972, some counties were covered jurisdictions before that time.

Because Arizona is a covered jurisdiction, the state must receive preclearance of any voting law changes or practices, including redistricting changes, ballot formats, legislation amending election law statutes and other voting procedures, before the changes or practices can legally take effect. Arizona must show that the voting law change does not have a racially discriminatory purpose and that the change is not retrogressive, *i.e.,* it will not make the minority voters worse off than they were prior to the change. The Arizona Attorney General (AG) is responsible for submitting all of Arizona's voting law or practice changes for preclearance.

Bilingual Election Requirements

The VRA also requires election information to be provided in more than one language, according to a two-part test. The first condition is satisfied if, in a state or jurisdiction, one of the following is true: 1) more than five percent of the voting-age citizens are members of a single language minority and are limited-English proficient; 2) more than 10,000 of the voting-age citizens are members of a single language minority and are limited-English proficient; or 3) in the case of a political subdivision that contains all or any part of an Indian reservation, more than five percent of the American Indian or Alaska Native voting-age citizens within the Indian reservation are members of a single language minority and are limited-English proficient. If the second condition, the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, is also true, then the jurisdiction must provide voting materials in other languages, in addition to the English language until August 6, 2032. Under these provisions of the VRA, the State of Arizona must provide all voting materials in the Spanish language and some counties must provide all voting materials in one or more Native American languages.

REDISTRICTING AND REAPPORTIONMENT

Redistricting and reapportionment are terms that are often used interchangeably when discussing the process that occurs every ten years across the country. In actuality, "redistricting" is the process of redrawing the specific congressional district and legislative district boundaries, while "reapportionment" is the process of reallocating the 435 seats in Congress among the 50 states, based on each state's population total as determined in the decennial census (reapportionment of Congress every ten years is the underlying purpose for taking the Census, as mandated in the U.S. Constitution). Federal law outlines the mathematical formula for determining how to calculate each state's representation in Congress, based on total population, but with a guarantee that each state will receive at least one seat in the U.S. House of Representatives. As a result of population growth, Arizona's congressional membership increased from six in the 1990s to eight, effective in 2002.

Since the late 1960s, the Arizona Legislature has consisted of 30 legislative districts, each of which is represented by two members of the Arizona House of Representatives and one member of the Arizona Senate. The 30 districts have been redrawn every ten years after the Census, generally by passage of a bill by the Legislature that describes the boundaries of the districts.

The U.S. Supreme Court has established two different standards for reviewing population variations for districts within a state, with one standard for state legislative districts and a

higher standard for a state's congressional districts. For a state's legislative districts, the Supreme Court has ruled that districts must be "substantially equal" in population, which is generally interpreted as having less than a ten percent difference between the most populous and least populous districts. For a state's congressional districts, the Supreme Court has held that district population totals must be "as nearly equal as practicable," which generally means a difference of only one or two persons between the most populous and least populous district.

Independent Redistricting Commission

With the approval of Proposition 106 at the 2000 general election, the job of drawing Arizona's congressional and legislative district lines was transferred from the Legislature to the Independent Redistricting Commission (IRC). The five members of the IRC are selected from a pool of applicants who are required to comply with specific criteria regarding geographic representation, political affiliation, and political employment and activity. The first four members are selected in succession by each of the four caucus leaders at the Legislature, with those four Commissioners then selecting a fifth person from the pool of applicants to serve as the chair of the IRC.

The IRC adopts congressional and legislative district boundaries after holding hearings and receiving comment from the public and the Legislature, as provided in Proposition 106. On adoption by the IRC, the new district boundaries are subject to review and preclearance under the VRA, just like any other change in Arizona's election laws or procedures. Once precleared, the new districts are used for all subsequent legislative and congressional elections.

Redistricting Plan Progress

The IRC adopted the equal population grid for the congressional and legislative districts on June 7, 2001. The grid was required by Proposition 106 as the initial starting point for districts and was based on Arizona's Township, Range and Section Public Land Survey System.

The Commissioners traveled around the state in the summer of 2001 conducting public hearings. The purpose of the hearings was to present information about the redrawing of Arizona's congressional and legislative districts and to hear input from citizens about redistricting.

Draft district maps were adopted by the IRC in August 2001. The draft maps incorporated modifications to the initial grids to accommodate many of Proposition 106's redistricting goals, such as respect for "communities of interest." The draft maps were available for public comment for at least 30 days.

The IRC adopted final district maps in May 2002, following the DOJ objections to the original legislative maps adopted by the IRC. The United States District Court ordered these maps be used in the fall 2002 election.

In February 2003, the DOJ precleared the legislative district map adopted by the IRC in May 2002 for use in the fall 2004 election.

In January 2004, the Maricopa County Superior Court found that the maps drawn by the IRC in May 2002 failed to meet a constitutional mandate requiring districts to be made politically competitive to the best extent possible. The Superior Court found that the IRC's failure to adequately take competition in the districts into account violated the rights of Arizona voters and resulted in maps that are unfair. The court approved an injunction against using the maps in the 2004 election and ordered the IRC to reconvene within 45 days to adopt a new plan for use in the 2004 election. The Superior Court approved a reworked IRC map in April 2004 and ordered the IRC to submit the new map to the DOJ.

In May 2004, the Arizona Court of Appeals granted a stay of the Superior Court injunction to allow the May 2002 maps to be used in the 2004 election, finding that it was too late into the election cycle to redraw the maps. The reworked IRC map was withdrawn from submission to the DOJ.

In October 2005, the Arizona Court of Appeals rendered a decision regarding the maps.

It reversed the portion of the January 2004 judgment that invalidated the legislative redistricting map and remanded the case to the Superior Court for further review. It directed the Superior Court to apply another standard of review to the case and determine whether a new trial or additional evidence or arguments were warranted. The Court of Appeals vacated the Superior Court's judgment that approved the reworked IRC map in April 2004. The Court of Appeals, however, upheld the Superior Court's ruling that the IRC did not violate constitutional principles when it created district boundaries that separated the Hopi Tribe and Navajo Nation into different congressional districts. The decision was appealed to the Arizona Supreme Court, but review was denied and the remand in the Superior Court was allowed to proceed.

The Superior Court utilized a more deferential standard of review but found that the IRC's plan violated the Arizona Constitution. Specifically, the court found that the IRC did not consider or favor competiveness, as required by the Arizona Constitution, to the extent practicable and so long as competiveness does not create a significant detriment to the other goals of creating the district boundaries (Ariz. Const. Art. IV, part 2, § 1(14)(F)). Since the plan violates the Constitution, the IRC may not utilize the plan in any upcoming elections. The Superior Court's order is not effective until March 7, 2007, which is 120 days from the date of issuance.

CLEAN ELECTIONS

The Citizens Clean Elections Act (Act), proposed by initiative petition, was approved in the November 1998 general election. The Act establishes a system to limit campaign spending and fundraising for political candidates in statewide and legislative elections. Candidates who voluntarily participate as "Clean Elections" candidates receive public financing for their election campaigns.

Funding Sources

The proposition is funded by a ten percent surcharge on certain civil penalties and criminal fines and a $100 annual fee on lobbyists representing for-profit entities, including trade groups of for-profit entities, and by any other person who donates to pay for public financing of candidates. Taxpayers who donate are eligible for a tax credit in the amount of the donation up to $500 or 20 percent of the taxpayer's total tax owed, whichever is more.

Candidates who agree to limit their fundraising and their spending can qualify to receive money from the Citizens Clean Elections Commission (Commission). To qualify, a candidate must receive a specified number of $5 contributions from registered voters. Legislative candidates must receive the contributions from voters within the candidate's district. The Act establishes specific dollar amounts to be awarded to candidates who qualify, with the amount based on the office sought, whether there is a contested primary in addition to the general election and whether there are "independent expenditures" made in that candidate's race. For example, a "Clean Elections" candidate for Governor could qualify for up to $380,000 in public money from the Commission for the primary election and up to $570,000 in the general election, while a legislative candidate could qualify for up to $10,000 in the primary and $15,000 in the general.

In exchange for receiving public money, candidates who participate in Clean Elections funding are generally required to limit their campaign spending to the dollar amounts received from the Commission and to limit the use of their own money ("personal money").

The Act also establishes reporting requirements for participating candidates in addition to the requirements under "regular" campaign finance law and provides for various penalties, including forfeiture of office, for violations of its provisions.

The Act is administered by the Commission, consisting of five members, no more than two of whom can be from the same political party or same county. The Act provides detailed criteria for Commission applicants, who are screened by the Commission on Appellate Court Appointments and grouped into "slates." Applicants are selected in turn by the Governor

and other designated statewide officeholders. The Commission's duties include allocating money to qualified candidates, sponsoring debates, adopting rules and providing for voter education.

Court Challenges

Funding of the Act

In 2002, former State Representative Steve May was fined for violating a civil parking ordinance. On top of his $27 fine, among other surcharges, appeared a ten percent surcharge to support Clean Elections, which he refused to pay. He and Rick Lavis, a lobbyist who had been assessed a $100 fee under the Act, challenged the constitutionality of the Act as violating their free speech rights.

A federal court dismissed the original lawsuit for lack of subject matter jurisdiction under the Tax Injunction Act (a federal statute) because it determined that this action challenged a state tax. Lavis and May then sought declaratory and injunctive relief in Superior Court. A Superior Court judge held the lobbyist fee was unconstitutional and severed that provision of the Act; it upheld the surcharge on civil and criminal fines.

On appeal, the Arizona Court of Appeals reversed the trial court decision and found the portion of the law relating to fees and surcharges was an unconstitutional restraint on the exercise of free speech. May filed a petition for special action protesting the Court of Appeals' decision to stay implementation of its opinion.

On October 11, 2002, the Arizona Supreme Court unanimously upheld the funding system, ruling that it was constitutional, overturning the Court of Appeals decision.

On March 24, 2003, the United States Supreme Court refused to hear an appeal of the Arizona Supreme Court decision.

Campaign Finance Penalties

Former Representative David Burnell Smith was elected to serve in the House of Representatives during the 47th Legislature. He ran as a publicly funded candidate and signed a form promising to adhere to the provisions of the Act and to the campaign finance rules established by the Commission.

The Commission investigated Smith's campaign expenditures and found that Smith violated campaign finance rules by spending about 17 percent more on his election than permitted by law. The Commission determined that his sanction was removal from office and Smith appealed this decision.

There were many procedural aspects of the case, but the Arizona Supreme Court had the opportunity to evaluate Smith's likelihood of success on the merits of his case. Smith claimed that he could only be impeached or recalled from office, and only for reasons set forth in the Constitution. The Court disagreed. The Court previously concluded that the constitutional provisions providing for means of removal from office do not limit the power of the Legislature from creating additional ways or causes for removal from public office. The Court found that the public, acting in its legislative capacity, authorized the removal from public office through the Act, which specifically authorizes removal from office as a sanction for serious violations of the campaign finance laws. The Court also found that Smith agreed to abide by those terms and nothing in the Arizona Constitution precluded his removal from office. Smith was the first state legislator to be removed from office for violating a publicly financed campaign system.

Proposition 106

In 2004, Proposition 106 qualified for the November ballot. If passed, Proposition 106 would have removed the dedicated funding source for the Citizens Clean Elections Commission. The de-funding of the Commission would have prevented it from regulating campaign finance laws, holding debates and publishing voter guides. Proposition 106 also would have provided that the surcharge, penalty and other money in the Clean Elections Fund on and after the effective date of the proposition would be deposited in the state General Fund.

In August 2004, the Arizona Supreme Court upheld a superior court ruling to remove Proposition 106 from the ballot because it violated the "separate amendment rule," a test for determining whether a proposal involves more than one constitutional amendment. Pursuant to the separate-amendment rule, if a proposal includes more than one amendment the entire proposal will fail. The Supreme Court agreed with the lower court that a voter might reasonably agree with one part of the initiative, such as eliminating publicly financed political campaigns, but might support the Commission's other duties.

ARIZONA TAXPAYER AND CITIZEN PROTECTION ACT (PROPOSITION 200)

Proposition 200 was a citizen's initiative placed on the 2004 general election ballot and approved by the voters. It requires that evidence of United States citizenship be submitted by every person to register to vote and that proof of identification be presented by every voter at the polling place prior to voting. Proposition 200 also requires state and local governments to verify the identity of all applicants for certain public benefits and government employees to make a written report to the federal immigration authorities for any United States immigration law violation by applicants for public benefits. Finally, it criminally penalizes governmental employees who fail to report a discovered violation of United States immigration law.

History

In July of 2003, Protect Arizona NOW and Yes on 200, both political committees, filed an application to circulate the initiative petition for the Arizona Taxpayer and Citizen Protection Act. There were a sufficient number of valid signatures on the petitions to place the initiative on the ballot, whereby it was subsequently numbered Proposition 200. Prior to the election, Proposition 200 was subject to two unsuccessful challenges attempting to remove it from the ballot.

Proposition 200 was approved by the voters in the 2004 general election. On November 12, 2004, the AG issued a formal opinion advising that, for the purposes of Proposition 200, state and local public benefits are those welfare programs within Arizona Revised Statutes, Title 46, that qualify as state and local public benefits pursuant to federal law. The election was canvassed on November 22, 2004. On November 30, 2004, the Mexican American Legal Defense and Educational Fund sought a temporary restraining order (TRO) to prevent Proposition 200 from becoming law. The TRO was granted, but expired on December 22, 2004. On December 22, 2004, the Governor officially proclaimed the election results and issued Executive Order 2004-30 directing all executive branch agencies to immediately implement the welfare benefits portion of Proposition 200.

The AG then submitted the portion of Proposition 200 modifying election laws to the DOJ for preclearance. When the DOJ precleared Proposition 200 on January 24, 2005, the portions relating to election law became legally enforceable.

Proof of Citizenship

For persons registering to vote or re-registering to vote in a different county on or after January 24, 2005, Proposition 200 requires the person to provide proof of citizenship. If proof of citizenship is not provided, the form is rejected and the person is requested to provide proof of citizenship. A person is not registered to vote until the person provides satisfactory proof of citizenship.

Statute defines the acceptable forms of identification for proving citizenship. Satisfactory evidence of United States citizenship includes one of the following:

- An Arizona driver's license number or nonoperating identification license number, issued after October 1, 1996.
- A driver's license or nonoperating identification license from another state that identifies United States citizenship.
- A legible photocopy of a birth certificate with the name of the applicant that verifies United States citizenship. Supporting documentation, like a marriage license, may be needed if the name on the birth certificate

is not the same as the person's current legal name.

- A legible photocopy of the pertinent pages of the United States passport.
- United States naturalization certificate number or the presentation of the original certificate of naturalization.
- Bureau of Indian Affairs Card Number, Tribal Treaty Card Number or Tribal Enrollment Number.

Identification at the Polls

Proposition 200 contains a provision requiring a voter at the polls who wishes to obtain a ballot to present one form of identification that contains the voter's photograph or two different forms of identification without the voter's photograph. However, there may be times in which the voter does not possess an acceptable form of identification. In February 2005, the AG advised the Secretary of State (SOS) that regulations guiding poll workers regarding acceptable forms of identification should be put in place and state statutes should be amended to allow a voter who lacks sufficient identification to vote a provisional ballot. Also, on February 4, 2005, the AG issued a formal opinion stating that a driver or nonoperating identification license issued in Arizona after October 1, 1996, is satisfactory evidence of United States citizenship to register to vote.

During the 2005 legislative session, the Legislature approved an act to allow a qualified elector, whose name is on the precinct register but who does not present the proper forms of identification, to vote a provisional ballot if the elector presents one other specified form of identification. This legislation was vetoed by the Governor. After the legislative session, the SOS developed new procedures for proof of identification at the polls and the AG and Governor, as required by law, approved the changes to the SOS's procedures manual. In August 2005, the AG requested that these procedural changes be precleared by the DOJ.

The changes to the SOS's procedures manual were precleared by the DOJ in October of 2005. Under the new procedures, all voters, regardless of whether they provide sufficient identification, will be allowed to vote using one of three types of ballots:

- The first type of ballot that may be issued is a regular ballot. This will be issued to voters who present sufficient identification and the information on the identification reasonably appears to be the same as the signature roster or the recorder's certificate.
- The second type of ballot that may be issued is a provisional ballot. This provisional ballot will be set aside and verified at the recorder's office proceeding the election. A provisional ballot will be issued to voters, who present sufficient identification, but the voter's name does not appear on the signature roster or the information on the voter's identification does not reasonably appear to be the same as the signature roster or the recorder's certificate. A provisional ballot will also be provided to voters who do not present sufficient identification but do present identification that is issued by a recognized Native American Tribe.
- The third and new type of ballot that may be issued is a conditional provisional ballot given with instructions to return to the county recorder's office with proper identification. The conditional provisional ballot will be issued to voters who do not present sufficient identification. The poll worker must notify the voter that he or she must provide sufficient identification to the county recorder and provide the voter with instructions on how and where the voter may provide proof of identification. The ballot will not be counted unless the voter provides the county recorder proof of identification by 5:00 p.m. on the fifth business day after a general election that includes an election for a federal office, or by 5:00 p.m. on the third business day after any other election. Thus, all voters who desire to vote will be given a ballot, but sufficient identification must be presented either at the polling place or shortly after the election.

Recent Litigation

Proposition 200 continues to be under scrutiny and subject to litigation. In 2006, a group of citizens and community groups challenged Proposition 200's requirement for proof of citizenship to register to vote and the requirement to provide identification at the polls. The United States District Court did not grant the plaintiff's requested temporary restraining order to prevent Arizona officials from enforcing the election provisions of Proposition 200. On October 5, 2006, the Ninth Circuit Court of Appeals enjoined the implementation of Proposition 200's voting identification requirement in connection with the 2006 general election and enjoined Proposition 200's registration proof of citizenship requirements so that voters can register before the October 9, 2006, registration deadline without having to show proof of identification. On October 20, 2006, the United States Supreme Court vacated the order of the Ninth Circuit, and identification at the polls was necessary during the 2006 general election. Critics of the voter identification provisions of Proposition 200 wanted to stage observers inside polling stations, but the United States District Court denied this request. The District Court, however, ordered election officials to count how many people who came to the polls with identification left without voting. The merits of the case are still being litigated.

HELP AMERICA VOTE ACT

The United States Congress passed the Help America Vote Act (HAVA) in 2002 to establish a program to provide funds to states to replace punch card voting systems, establish the Election Assistance Commission (EAC) to assist in the administration of federal elections and to otherwise provide assistance with the administration of certain federal election laws and programs. Additionally, HAVA established minimum election administration standards for states and units of local government with responsibility for the administration of federal elections.

In order to receive HAVA funds, each state is required to develop and submit a state plan to the Federal Election Commission and the EAC to implement the new federal requirements. The SOS organized a 25-member committee to create Arizona's plan. The final Arizona plan was submitted on May 15, 2003, and is the official working document for implementation of the federal HAVA requirements.

In addition to the creation of a state plan, each state is required to create an election fund consisting of federal appropriations to implement HAVA to be used exclusively to carry out federal HAVA requirements.

Among other election law changes, HAVA requires each state to meet minimum election technology and administration requirements, including:

- ensuring that voting systems used in federal elections on and after January 1, 2006, meet certain voting system standards.
- employing provisional voting for certain voters whose eligibility to vote is in question in federal elections held on and after January 1, 2004.
- posting certain voting information at the polls on the day of each election for federal office held on and after January 1, 2004.
- developing and maintaining a uniform computerized statewide voter registration database no later than January 1, 2004.
- implementing requirements for voters who register by mail on and after January 1, 2003.

As part of HAVA compliance, the SOS permitted counties to purchase direct recording equipment (DRE) for disability accessible voting systems. The SOS allowed counties to purchase DRE machines from one of three major voting system vendors. In Pima County, many citizen activists voiced concerns about the DRE machines the Board of Supervisors had selected for disabled voting, claiming they are unreliable and insecure. During the summer of 2006, the Pima County Board of Supervisors delayed its decision whether to approve the voting systems, causing concern that Arizona would not be in compliance with HAVA, which requires that the disabled have the ability to vote in secret, rather

than with assistance. A group of citizens requested the Maricopa County Superior Court issue an injunction to stop the use of these machines in 13 Arizona counties. The petitioners claimed that two of the three vendors' machines were unreliable and insecure. The Superior Court denied the injunction and granted the SOS's motion to dismiss the case. The Pima County Board of Supervisors then approved the DRE machines for use beginning in the 2006 primary election.

MANUAL AUDITS OF THE ELECTION

Both the SOS's Instructions and Procedures Manual (Procedures Manual) and statute contain instructions concerning the testing of voting equipment. The Procedures Manual articulates the period of time before an election that the automatic tabulating equipment and programs must be tested to ascertain that the equipment and programs will correctly count the votes cast. The public is given at least 48 hours' notice of the testing. The test is observed by at least two election inspectors who are not of the same political party and is open to representatives of the political parties, the candidates, the press and the public. The test is conducted by processing a preaudited group of ballots marked to record a predetermined number of valid votes. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the equipment is approved. The same testing procedures are repeated immediately before the start of the official count of the ballots. Additionally, electronic ballot tabulating systems are tested for logic and accuracy within seven days before their use for early balloting pursuant to the Procedures Manual.

As soon as the polls are closed and the last ballot has been deposited in the ballot box, the election board or the tally board must immediately count the votes cast. All proceedings at the counting center are under the direction of the board of supervisors or other officer in charge of elections and may be observed by representatives of each political party and the public. If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the officer in charge of elections may direct that they be counted manually.

Recent concerns about election fraud with electronic tabulating machines prompted the Legislature to establish a procedure for manually auditing certain randomly selected election results. For each countywide primary, general and presidential preference election, the county officer in charge of the election will conduct a hand count of at least two percent of the precincts in that county, or two precincts, whichever is greater. At least four races must be hand counted, which must include one federal race, one statewide candidate race, one ballot measure and one legislative race on those ballots. If a presidential race is on the ballot, it also must be hand counted. All selections of precincts and races are chosen by lot.

If the randomly selected races result in a difference in any race that is less than the assigned 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, further hand counts will be performed. If there were enough discrepancies between the hand count and the electronic tabulation, it is possible that all the ballots from an entire county would have to be hand counted. For ballots cast at a polling place only, if the entire county must be hand counted, that will constitute the official count for those races.

The designated margin of error is determined by the Vote Count Verification Committee (Committee) within the office of the SOS. The designated margin is used in reviewing the hand counting of votes and to set the acceptable variance rate between the machine and hand counts. The Committee established the designated margin for early ballots to be five ballots or two percent, whichever is greater. The Committee established the designated margin for ballots cast at the polling place to be three ballots or one percent, whichever is greater. These designated

margins were precleared on October 19, 2006, and will be officially used for the first time in the 2006 general election.

ADDITIONAL RESOURCES

- Arizona Secretary of State
  www.azsos.gov
- Citizens Clean Elections Commission
  www.ccec.state.az.us
- Independent Redistricting Commission
  http://www.azredistricting.org/
- Arizona Attorney General
  www.azag.gov
- U.S. Department of Justice, Civil Rights Division, Voting Section
  http://www.usdoj.gov/crt/voting/
- U.S. Election Assistance Commission
  http://www.eac.gov
- Joseph Kanefield, *Election Law in Arizona*, Arizona Attorney (Nov. 2006)
  http://www.myazbar.org/AZAttorney/