

REFERENCE TITLE: elections; early ballot procedures.

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1343**

Introduced by  
Senator Gray C

AN ACT

AMENDING SECTION 16-552, 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 16-552, Arizona Revised Statutes, is amended to  
3 read:

4 16-552. Early ballots; processing; challenges

5 A. In a jurisdiction that uses punch card ballots, the early election  
6 board, immediately upon receipt of the early ballots, ~~shall~~, as provided by  
7 this section, **SHALL** cast separately for each precinct the early ballots which  
8 have been received. In a jurisdiction that uses optical scan ballots, the  
9 officer in charge of elections may use the procedure prescribed by this  
10 section or may request approval from the secretary of state for a different  
11 method for processing early ballots. The request shall be made in writing at  
12 least ninety days before the election for which the procedure is intended to  
13 be used. After the election official has confirmed with the secretary of  
14 state that all election equipment passes the logic and accuracy test, the  
15 election official may begin to count early ballots. No early ballot results  
16 may be released except as prescribed by section 16-551.

17 **B. FOR ANY EARLY BALLOTS THAT ARE COMPLETED AND PLACED INSIDE A  
18 PROPERLY SIGNED, DATED AND SEALED EARLY BALLOT ENVELOPE AND THAT ARE RETURNED  
19 BY THE VOTER TO A POLLING PLACE ON ELECTION DAY, THE FOLLOWING APPLY:**

20 **1. IF THE EARLY VOTER DELIVERS THE VOTED EARLY BALLOT TO THAT VOTER'S  
21 PRECINCT OF RESIDENCE, THE VOTER SHALL RETAIN THE VOTED EARLY BALLOT IN ITS  
22 SEALED ENVELOPE AND SHALL PRESENT THE ENVELOPE TO THE ELECTION BOARD FOR  
23 EXAMINATION. THE ELECTION BOARD SHALL VERIFY THE IDENTIFICATION OF THE VOTER  
24 AS OTHERWISE PROVIDED BY LAW AND SHALL NOTE THE VERIFICATION. IF THE SEALED  
25 ENVELOPE INDICATES THAT IT CONTAINS AN EARLY BALLOT ISSUED FOR THAT VOTING  
26 PRECINCT, THE VOTER SHALL OPEN THE ENVELOPE AND THE BALLOT SHALL BE PROCESSED  
27 USING THE VOTING EQUIPMENT AS OTHERWISE PROVIDED BY LAW. IF THE EARLY BALLOT  
28 ENVELOPE BEARS NO INDICATION OF THE VOTING PRECINCT, AND AFTER VERIFICATION  
29 OF THE VOTER'S IDENTIFICATION, THE VOTER SHALL DEPOSIT THE SIGNED, DATED AND  
30 SEALED EARLY BALLOT ENVELOPE UNOPENED INTO A SEALED BALLOT BOX TO BE  
31 PROCESSED AND TABULATED AS PRESCRIBED BY THIS SECTION.**

32 **2. IF THE EARLY VOTER DELIVERS THE VOTED EARLY BALLOT TO A PRECINCT  
33 OTHER THAN THE VOTER'S PRECINCT OF RESIDENCE ON ELECTION DAY, THE VOTER SHALL  
34 DEPOSIT THE SIGNED, DATED AND SEALED EARLY BALLOT ENVELOPE UNOPENED INTO A  
35 SEALED BALLOT BOX TO BE PROCESSED AND TABULATED AS PRESCRIBED BY THIS  
36 SECTION.**

37 ~~B.~~ **C.** The early election board shall check the voter's affidavit on  
38 the envelope containing the early ballot. If it is found to be sufficient,  
39 the vote shall be allowed. If the affidavit is insufficient, the vote shall  
40 not be allowed **AND THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF  
41 ELECTIONS SHALL NOTIFY THE EARLY BALLOT VOTER WITHIN FIVE DAYS AFTER ELECTION  
42 DAY THAT THE AFFIDAVIT IS INSUFFICIENT. THE NOTIFICATION MAY BE BY  
43 TELEPHONE, ELECTRONIC MAIL OR OTHER SIMILAR METHOD. THE COUNTY RECORDER OR  
44 OTHER OFFICER IN CHARGE OF ELECTIONS SHALL INFORM THE VOTER THAT THE VOTER  
45 SHOULD APPEAR AT THE OFFICE OF THE COUNTY RECORDER OR OTHER DESIGNATED**

1 LOCATION WITHIN TEN DAYS AFTER ELECTION DAY TO DEMONSTRATE THE SUFFICIENCY OF  
2 THE AFFIDAVIT. IF THE AFFIDAVIT IS THEN FOUND TO BE SUFFICIENT, THE VOTE  
3 SHALL BE ALLOWED.

4 ~~G~~ D. The county chairman of each political party represented on the  
5 ballot may, by written appointment addressed to the early election board,  
6 designate party representatives and alternates to act as early ballot  
7 challengers for the party. No party may have more than the number of such  
8 representatives or alternates which were mutually agreed upon by each  
9 political party to be present at one time. If such agreement cannot be  
10 reached, the number of representatives shall be limited to one for each  
11 political party.

12 ~~D~~ E. An early ballot may be challenged on any grounds set forth in  
13 section 16-591. All challenges shall be made in writing with a brief  
14 statement of the grounds prior to the early ballot being placed in the ballot  
15 box. A record of all challenges and resulting proceedings shall be kept in  
16 substantially the same manner as provided in section 16-594. If an early  
17 ballot is challenged, it shall be set aside and retained in the possession of  
18 the early election board or other officer in charge of early ballot  
19 processing until a time that the early election board sets for determination  
20 of the challenge, subject to the procedure in subsection ~~E~~ F of this  
21 section, at which time the early election board shall hear the grounds for  
22 the challenge and shall decide what disposition shall be made of the early  
23 ballot by majority vote. If the early ballot is not allowed, it shall be  
24 handled pursuant to subsection ~~G~~ H of this section.

25 ~~E~~ F. Within twenty-four hours of receipt of a challenge, the early  
26 election board or other officer in charge of early ballot processing shall  
27 mail, by first class mail, a notice of the challenge including a copy of the  
28 written challenge, and also including the time and place at which the voter  
29 may appear to defend the challenge, to the voter at the mailing address shown  
30 on the request for an early ballot or, if none was provided, to the mailing  
31 address shown on the registration rolls. Notice shall also be mailed to the  
32 challenger at the address listed on the written challenge and provided to the  
33 county chairman of each political party represented on the ballot. The board  
34 shall meet to determine the challenge at the time specified by the notice  
35 but, in any event, not earlier than ninety-six hours after the notice is  
36 mailed, or forty-eight hours if the notifying party chooses to deliver the  
37 notice by overnight or hand delivery, and not later than 5:00 p.m. on the  
38 Monday following the election. The board shall provide the voter with an  
39 informal opportunity to make, or to submit, brief statements regarding the  
40 challenge. The board may decline to permit comments, either in person or in  
41 writing, by anyone other than the voter, the challenger and the party  
42 representatives. The burden of proof is on the challenger to show why the  
43 voter should not be permitted to vote. The fact that the voter fails to  
44 appear shall not be deemed to be an admission of the validity of the  
45 challenge. The early election board or other officer in charge of early

1 ballot processing is not required to provide the notices described in this  
2 subsection if the written challenge fails to set forth at least one of the  
3 grounds listed in section 16-591 as a basis for the challenge. In that  
4 event, the challenge will be summarily rejected at the meeting of the board.  
5 Except for election contests pursuant to section 16-672, the board's decision  
6 is final and may not be appealed.

7 ~~F.~~ G. If the vote is allowed, the board shall open the envelope  
8 containing the ballot in such a manner that the affidavit thereon is not  
9 destroyed, take out the ballot without unfolding it or permitting it to be  
10 opened or examined and show by the records of the election that the elector  
11 has voted.

12 ~~G.~~ H. If the vote is not allowed, the affidavit envelope containing  
13 the early ballot shall not be opened and the board shall mark across the face  
14 of such envelope the grounds for rejection. The affidavit envelope and its  
15 contents shall then be deposited with the opened affidavit envelopes and  
16 shall be preserved with official returns. If the voter does not enter an  
17 appearance, the board shall send the voter a notice stating whether  
18 the early ballot was disallowed and, if disallowed, providing the grounds  
19 for the determination. The notice shall be mailed by first class mail to the  
20 voter's mailing address as shown on the registration rolls within three days  
21 after the board's determination.

22 ~~H.~~ I. Party representatives and alternates may be appointed as  
23 provided in subsection ~~G.~~ D of this section to be present and to challenge  
24 the verification of questioned ballots pursuant to section 16-584 on any  
25 grounds permitted by this section. Questioned ballots which are challenged  
26 shall be presented to the early election board for decision under the  
27 provisions of this section.