

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SENATE BILL 1405

AN ACT

AMENDING SECTIONS 16-241 AND 16-244, ARIZONA REVISED STATUTES; AMENDING SECTION 16-246, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 183, SECTION 3; REPEALING SECTION 16-246, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2007, CHAPTER 168, SECTION 3; AMENDING SECTIONS 16-542, 16-545 AND 16-558.01, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS AND ELECTORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-241, Arizona Revised Statutes, is amended to
3 read:

4 16-241. Presidential preference election; conduct of election

5 A. A presidential preference election shall be held on the fourth
6 Tuesday in February of each year in which the president of the United States
7 is elected to give qualified electors the opportunity to express their
8 preference for ~~the A presidential candidate of the political party indicated~~
9 ~~as their preference by the record of their registration~~ AS PRESCRIBED IN THIS
10 ARTICLE. No other election may appear on the same ballot as the presidential
11 preference election.

12 B. Notwithstanding subsection A of this section, the governor may
13 issue a proclamation that the presidential preference election is to be held
14 on a date earlier than the fourth Tuesday in February. The proclamation
15 shall be issued no later than one hundred fifty days before the date of the
16 election as set forth in the proclamation. The governor shall transmit a
17 copy of the election proclamation to the ~~clerk~~ CLERKS of the county boards of
18 supervisors.

19 C. Except as otherwise provided in this article, the presidential
20 preference election shall be conducted and canvassed in the same manner as
21 prescribed in this title for the primary election held pursuant to section
22 16-201. All provisions of other laws that govern elections and that are not
23 in conflict with this article apply to a presidential preference election,
24 including laws relating to registration and qualifications of electors.

25 D. Unless otherwise specifically prescribed by this article, the
26 powers and duties conferred by law on boards of supervisors, officers in
27 charge of elections, county recorders, precinct boards and central counting
28 boards in connection with a primary election are conferred on those persons
29 for purposes of a presidential preference election and shall be exercised by
30 them for a presidential preference election.

31 E. Every act that is an offense pursuant to the election laws of this
32 state is an offense for purposes of a presidential preference election, and a
33 person is subject to the penalties prescribed by those laws.

34 F. FOR VOTING AT A POLLING PLACE, EACH PARTY BALLOT SHALL BE
35 DESIGNATED BY THE NAME OF THE PARTY. FOR AN ELECTOR WHO IS REGISTERED AS A
36 MEMBER OF A POLITICAL PARTY THAT IS ELIGIBLE FOR REPRESENTATION ON THE
37 BALLOT, THE JUDGE OF ELECTION SHALL GIVE THE ELECTOR ONE BALLOT ONLY OF THE
38 PARTY WITH WHICH THE ELECTOR WHO IS REGISTERED AS INDEPENDENT, AS NO PARTY
39 PREFERENCE OR AS A MEMBER OF A POLITICAL PARTY THAT IS NOT ELIGIBLE FOR
40 REPRESENTATION ON THE BALLOT, THE ELECTOR SHALL DESIGNATE THE BALLOT OF ONLY
41 ONE OF THE POLITICAL PARTIES THAT IS ELIGIBLE FOR REPRESENTATION ON THE
42 BALLOT AS PRESCRIBED BY SECTION 16-244 AND THAT HAS NOT PROHIBITED VOTING BY
43 VOTERS WHO ARE NOT MEMBERS OF THAT POLITICAL PARTY, AND THE JUDGE OF ELECTION
44 SHALL GIVE THE ELECTOR ONLY THAT POLITICAL PARTY'S BALLOT.

1 presidential preference election may make a verbal or signed, written request
2 for an official early ballot to the county recorder or other officer in
3 charge of elections for the county in which the elector is registered to
4 vote. IF THE ELECTOR IS REGISTERED AS A MEMBER OF A POLITICAL PARTY THAT IS
5 ELIGIBLE FOR CONTINUED REPRESENTATION ON THE BALLOT, THE ELECTOR MAY RECEIVE
6 A BALLOT ONLY OF THE PARTY WITH WHICH THE ELECTOR IS AFFILIATED AS IT APPEARS
7 ON THE PRECINCT REGISTER. FOR AN ELECTOR WHO IS REGISTERED AS INDEPENDENT,
8 AS NO PARTY PREFERENCE OR AS A MEMBER OF A POLITICAL PARTY THAT IS NOT
9 ELIGIBLE FOR REPRESENTATION ON THE BALLOT, THE ELECTOR SHALL DESIGNATE THE
10 BALLOT OF ONLY ONE OF THE POLITICAL PARTIES THAT IS ELIGIBLE FOR
11 REPRESENTATION ON THE BALLOT AND THAT DOES NOT PROHIBIT VOTING BY VOTERS WHO
12 ARE NOT MEMBERS OF THAT POLITICAL PARTY. If the request is verbal, the
13 requesting elector shall provide the date of birth and birthplace or other
14 information that if compared to the voter registration records for that
15 elector would confirm the identity of the elector.

16 B. Absent uniformed services voters or overseas voters who are
17 otherwise eligible to vote in the election may vote as prescribed by sections
18 16-543, 16-543.01 and 16-543.02. The list of candidates that is sent as
19 prescribed by section 16-543.01 shall be a list of all candidates who have
20 qualified for the presidential preference ballot by the forty-sixth day
21 before the presidential preference election.

22 C. The county recorder or other officer in charge of elections may
23 establish on-site early voting locations at the office of the county recorder
24 or at other locations in the county deemed necessary or appropriate by the
25 recorder. Early voting shall begin ~~within the time limits prescribed in~~
26 ~~section 16-542 unless otherwise prescribed by this section~~ TWENTY-SIX DAYS
27 BEFORE THE PRESIDENTIAL PREFERENCE ELECTION AND SHALL END ON THE FRIDAY
28 BEFORE THE PRESIDENTIAL PREFERENCE ELECTION.

29 D. The county recorder or other officer in charge of elections shall
30 send by nonforwardable mail that is marked with the statement required by the
31 postmaster to receive an address correction notification any early ballots
32 that are requested pursuant to subsections A and B of this section and shall
33 include a preaddressed envelope for the elector to return the completed
34 ballot.

35 E. The county recorder or other officer in charge of elections shall
36 provide to each election board an appropriate alphabetized list of voters who
37 have requested and have been sent an early ballot. Any person who is on that
38 list of voters and who was sent an early ballot shall not vote at the polling
39 place for that election precinct except as prescribed by section 16-579,
40 subsection C.

41 F. The county recorder or other officer in charge of elections may
42 provide for any of the following in the same manner prescribed by law for
43 other elections:

- 44 1. Special election boards.

1 2. Emergency balloting for persons who experience an emergency after
2 5:00 p.m. on the Friday preceding the presidential preference election and
3 before 5:00 p.m. on the Monday immediately preceding the presidential
4 preference election.

5 G. Sections 16-550, 16-551 and 16-552 govern the use of early
6 balloting for the presidential preference election.

7 Sec. 4. Repeal

8 Section 16-246, Arizona Revised Statutes, as amended by Laws 2007,
9 chapter 168, section 3, is repealed.

10 Sec. 5. Section 16-542, Arizona Revised Statutes, is amended to read:
11 16-542. Request for ballot

12 A. Within ~~ninety~~ NINETY-THREE days ~~next preceding the Saturday~~ before
13 any election called pursuant to the laws of this state, an elector may make a
14 verbal or signed request to the county recorder, or other officer in charge
15 of elections for the applicable political subdivision of this state in whose
16 jurisdiction the elector is registered to vote, for an official early ballot.
17 In addition to name and address, the requesting elector shall provide the
18 date of birth and state or country of birth or other information that if
19 compared to the voter registration information on file would confirm the
20 identity of the elector. If the request indicates that the elector needs a
21 primary election ballot and a general election ballot, the county recorder or
22 other officer in charge of elections shall honor the request. For any
23 partisan primary election, if the elector is not registered as a member of a
24 political party that is entitled to continued representation on the ballot
25 pursuant to section 16-804, the elector shall designate the ballot of only
26 one of the political parties that is entitled to continued representation on
27 the ballot and the elector may receive and vote the ballot of only that one
28 political party. The county recorder may establish on-site early voting
29 locations at the recorder's office, ~~or~~ WHICH SHALL BE OPEN AND AVAILABLE FOR
30 USE TWENTY-SIX DAYS BEFORE THE ELECTION. THE COUNTY RECORDER MAY ALSO
31 ESTABLISH any other EARLY VOTING locations in the county the recorder deems
32 necessary.

33 B. Notwithstanding subsection A of this section, a request for an
34 official early ballot from an absent uniformed services voter or overseas
35 voter as defined in the uniformed and overseas citizens absentee voting act
36 of 1986 (P.L. 99-410; 42 United States Code section 1973ff-6) or a voter
37 whose information is protected pursuant to section 16-153 that is received by
38 the county recorder or other officer in charge of elections more than ~~ninety~~
39 NINETY-THREE days ~~next preceding the Saturday~~ before the election is valid.
40 If requested by the absent uniformed services or overseas voter, or a voter
41 whose information is protected pursuant to section 16-153, the county
42 recorder or other officer in charge of elections shall provide to the
43 requesting voter early ballot materials through the next two regularly
44 scheduled general elections for federal office immediately following receipt
45 of the request.

1 C. TWENTY-SIX DAYS BEFORE THE ELECTION, the county recorder or other
2 officer in charge of elections shall mail THE EARLY BALLOT AND THE ENVELOPE
3 FOR ITS RETURN postage prepaid to the address provided by the requesting
4 elector, ~~which address shall be the elector's residence address or the~~
5 ~~location where the elector is temporarily residing while absent from the~~
6 ~~precinct, the early ballot and the envelope for its return within five days~~
7 ~~after receipt of the official early ballots from the officer charged by law~~
8 ~~with the duty of preparing ballots pursuant to section 16-545. If a statewide~~
9 ~~voter registration database is not yet operational and if the requesting~~
10 ~~elector registered to vote for the first time in this state after January 1,~~
11 ~~2003 and has not yet voted in this state or is reregistering after January 1,~~
12 ~~2003 after moving from one county in this state to another county in this~~
13 ~~state and is voting for the first time at the new registration address, the~~
14 ~~early ballot materials shall include notice that the person shall submit a~~
15 ~~photocopy of a current form of identification that bears a photograph of the~~
16 ~~person and the name of the person or a photocopy of a current utility bill,~~
17 ~~bank statement, paycheck, government issued check or other government~~
18 ~~document that shows the name and registration address of the person and~~
19 ~~notice that if the person does not submit photocopies of the required~~
20 ~~documents, the person may only vote a provisional ballot.~~

21 D. Only the elector may be in possession of that elector's unvoted
22 early ballot. If a complete and correct request is made by the elector
23 within ~~twenty-three~~ TWENTY-SIX days ~~next preceding the Saturday~~ before the
24 election, the mailing must be made within forty-eight hours after receipt of
25 the request. Saturdays, Sundays and other legal holidays are excluded from
26 the computation of the forty-eight hour period prescribed by this subsection.
27 If a complete and correct request is made by an absent uniformed services
28 voter or an overseas voter before the election, the regular early ballot
29 shall be transmitted by mail, by fax or by other electronic format approved
30 by the secretary of state within twenty-four hours after the early ballots
31 are delivered pursuant to section 16-545, subsection B, excluding Sundays.

32 E. In order to be complete and correct and to receive an early ballot
33 by mail, an elector's request that an early ballot be mailed to the elector's
34 residence or temporary address must include all of the information prescribed
35 by subsection A of this section and must be received by the county recorder
36 or other officer in charge of elections no later than 5:00 p.m. on the
37 eleventh day preceding the election. An elector who appears personally no
38 later than 5:00 p.m. on the Friday preceding the election at an on-site early
39 voting location that is established by the county recorder or other officer
40 in charge of elections shall be given a ballot and permitted to vote at the
41 on-site location. If an elector's request to receive an early ballot is not
42 complete and correct but complies with all other requirements of this
43 section, the county recorder or other officer in charge of elections shall
44 attempt to notify the elector of the deficiency of the request.

1 F. Unless an elector specifies that the address to which an early
2 ballot is to be sent is a temporary address, the recorder may use the
3 information from an early ballot request form to update voter registration
4 records.

5 G. The county recorder or other officer in charge of early balloting
6 shall provide an alphabetized list of all voters in the precinct who have
7 requested and have been sent an early ballot to the election board of the
8 precinct in which the voter is registered not later than the day prior to the
9 election.

10 H. As a result of an emergency occurring between 5:00 p.m. on the
11 second Friday preceding the election and 5:00 p.m. on the Monday preceding
12 the election, qualified electors may request to vote early in the manner
13 prescribed by the county recorder of their respective county. For the
14 purposes of this subsection, "emergency" means any unforeseen circumstances
15 that would prevent the elector from voting at the polls.

16 I. A candidate or political committee may distribute early ballot
17 request forms to voters. If the early ballot request forms include a printed
18 address for return to an addressee other than a political subdivision, the
19 addressee shall be the candidate or political committee that paid for the
20 printing and distribution of the request forms. All early ballot request
21 forms that are received by a candidate or political committee shall be
22 transmitted as soon as practicable to the political subdivision that will
23 conduct the election.

24 Sec. 6. Section 16-545, Arizona Revised Statutes, is amended to read:

25 16-545. Early ballot

26 A. The early ballot shall be one prepared for use in the precinct in
27 which the applicant resides and, if a partisan primary election, of the
28 political party with which the applicant is affiliated as shown by the
29 affidavit of registration. The ballot shall be identical with the regular
30 official ballots, except that it shall have printed or stamped on it "early".

31 B. The officer charged by law with the duty of preparing ballots at
32 any election shall prepare the official early ballot and deliver a sufficient
33 number to the recorder or other officer in charge of elections not later than
34 the ~~thirtieth~~ THIRTY-THIRD day ~~preceding the Saturday~~ before the election.
35 EXCEPT AS PROVIDED IN SECTION 16-542, SUBSECTION D, A REGULAR EARLY BALLOT
36 SHALL NOT BE DISTRIBUTED TO AN ELECTOR BEFORE THE BEGINNING OF EARLY VOTING,
37 WHICH SHALL BEGIN TWENTY-SIX DAYS BEFORE THE DATE OF THE ELECTION.

38 Sec. 7. Section 16-558.01, Arizona Revised Statutes, is amended to
39 read:

40 16-558.01. Mailing of ballots

41 Not more than ~~thirty-three~~ TWENTY-SIX days before the election and not
42 fewer than fifteen days before the election, the county recorder or other
43 officer in charge of elections for the special district shall send by ~~first~~
44 ~~class~~ NONFORWARDABLE mail all official ballots with printed instructions and
45 a return envelope bearing a printed ballot affidavit as described in section

1 16-547 to each qualified elector entitled to vote in the election. The
2 envelope in which the ballot is mailed shall be clearly marked "~~Do not~~
3 ~~forward. Return to sender. Return postage guaranteed. Address correction~~
4 ~~requested.~~" WITH THE STATEMENT REQUIRED BY THE POSTMASTER TO RECEIVE AN
5 ADDRESS CORRECTION AND NOTIFICATION. The district governing board shall
6 determine whether the voter or the district governing board will pay for the
7 postage for the return of electors' marked ballots. An elector who votes in
8 a special district mail ballot election shall return the elector's marked
9 ballot to the recorder or other officer in charge of the election or to a
10 designated depository site as provided in section 16-411 no later than 7:00
11 p.m. on the day of the election.

12 Sec. 8. Emergency

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