

REFERENCE TITLE: early ballots; voter identification

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

## **SB 1493**

Introduced by  
Senators Gorman, Blendu; Representatives Clark, Pearce; Senators Gould,  
Gray L, Harper, Johnson; Representatives Biggs, Kavanagh, Nichols,  
Yarbrough

AN ACT

AMENDING SECTIONS 16-548 AND 16-552, ARIZONA REVISED STATUTES; RELATING TO  
EARLY VOTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-548, Arizona Revised Statutes, is amended to  
3 read:

4 16-548. Preparation and transmission of ballot

5 A. The early voter shall make and sign the affidavit and shall then  
6 mark his ballot in such a manner that his vote cannot be seen. The early  
7 voter shall fold the ballot, if a paper ballot, so as to conceal the vote and  
8 deposit the voted ballot in the envelope provided for that purpose. ~~;~~ ~~which~~  
9 **THE EARLY VOTER SHALL ALSO INCLUDE IN THE ENVELOPE A LEGIBLE PHOTOCOPY OF**  
10 **IDENTIFICATION THAT COMPLIES WITH SECTION 16-579. THE ENVELOPE** shall be  
11 securely sealed and, together with the affidavit **AND PHOTOCOPIES OF**  
12 **IDENTIFICATION**, delivered or mailed to the county recorder or other officer  
13 in charge of elections of the political subdivision in which the elector is  
14 registered or deposited by the voter or the voter's agent at any polling  
15 place in the county. In order to be counted and valid, the ballot must be  
16 received by the county recorder or other officer in charge of elections or  
17 deposited at any polling place in the county no later than 7:00 p.m. on  
18 election day.

19 B. If the early voter is an overseas citizen, a qualified elector  
20 absent from the United States or in the United States service, a spouse or  
21 dependent residing with the early voter or a qualified elector of a special  
22 district mail ballot election as provided in article 8.1 of this chapter, the  
23 early voter may subscribe to the affidavit before and obtain the signature  
24 and military identification number or passport number, if available, of any  
25 person who is a United States citizen eighteen years of age or older.

26 Sec. 2. Section 16-552, Arizona Revised Statutes, is amended to read:

27 16-552. Early ballots; processing; challenges

28 A. In a jurisdiction that uses punch card ballots, the early election  
29 board, immediately upon receipt of the early ballots, ~~shall~~, as provided by  
30 this section, **SHALL** cast separately for each precinct the early ballots which  
31 have been received. In a jurisdiction that uses optical scan ballots, the  
32 officer in charge of elections may use the procedure prescribed by this  
33 section or may request approval from the secretary of state for a different  
34 method for processing early ballots. The request shall be made in writing at  
35 least ninety days before the election for which the procedure is intended to  
36 be used. After the election official has confirmed with the secretary of  
37 state that all election equipment passes the logic and accuracy test, the  
38 election official may begin to count early ballots. No early ballot results  
39 may be released except as prescribed by section 16-551.

40 B. The early election board shall check the voter's affidavit on the  
41 envelope containing the early ballot **AND SHALL CHECK THE FORMS OF**  
42 **IDENTIFICATION SUBMITTED BY THE VOTER. IF THE PROOF OF IDENTIFICATION IS**  
43 **INCOMPLETE OR ILLEGIBLE AND THE EARLY ELECTION BOARD IS NOT ABLE TO PROCESS**  
44 **THE EARLY BALLOT, THE EARLY ELECTION BOARD SHALL NOTIFY THE EARLY VOTER**  
45 **WITHIN TEN BUSINESS DAYS OF RECEIPT OF THE EARLY BALLOT, SHALL SPECIFY THE**

1 MISSING OR ILLEGIBLE INFORMATION AND SHALL STATE THAT THE EARLY BALLOT CANNOT  
2 BE ALLOWED UNTIL THE INFORMATION IS SUPPLIED. IF THE MISSING OR ILLEGIBLE  
3 INFORMATION IS SUPPLIED BEFORE 7:00 P.M. ON ELECTION DAY, THAT PERSON IS  
4 DEEMED TO HAVE PROPERLY CAST AN EARLY BALLOT AND THE VOTE SHALL BE ALLOWED.  
5 If ~~it is~~ THE AFFIDAVIT AND IDENTIFICATION ARE found to be sufficient, the  
6 vote shall be allowed. If the affidavit ~~is~~ AND IDENTIFICATION ARE  
7 insufficient, the vote shall not be allowed.

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

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

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

1 representatives. The burden of proof is on the challenger to show why the  
2 voter should not be permitted to vote. The fact that the voter fails to  
3 appear shall not be deemed to be an admission of the validity of the  
4 challenge. The early election board or other officer in charge of early  
5 ballot processing is not required to provide the notices described in this  
6 subsection if the written challenge fails to set forth at least one of the  
7 grounds listed in section 16-591 as a basis for the challenge. In that  
8 event, the challenge will be summarily rejected at the meeting of the board.  
9 Except for election contests pursuant to section 16-672, the board's decision  
10 is final and may not be appealed.

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

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

26 H. Party representatives and alternates may be appointed as provided  
27 in subsection C of this section to be present and to challenge the  
28 verification of questioned ballots pursuant to section 16-584 on any grounds  
29 permitted by this section. Questioned ballots which are challenged shall be  
30 presented to the early election board for decision under the provisions of  
31 this section.