

REFERENCE TITLE: early ballots; verification notice

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2090

Introduced by
Representative Nichols

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. The early election board shall check the voter's affidavit on the
18 envelope containing the early ballot. If it is found to be sufficient, the
19 vote shall be allowed. If the affidavit is insufficient, the vote shall not
20 be allowed **AND THE COUNTY RECORDER OR OTHER OFFICER IN CHARGE OF ELECTIONS**
21 **SHALL PROVIDE FOR A METHOD OF NOTIFYING THE EARLY BALLOT VOTER AT NO COST TO**
22 **THE VOTER WHETHER THE VOTER'S BALLOT WAS VERIFIED AND COUNTED AND, IF NOT**
23 **COUNTED, THE REASON FOR NOT COUNTING THE BALLOT. THE NOTIFICATION MAY BE IN**
24 **THE FORM OF NOTICE BY MAIL TO THE VOTER, ESTABLISHMENT OF A TOLL FREE**
25 **TELEPHONE NUMBER, INTERNET ACCESS OR OTHER SIMILAR METHOD TO ALLOW THE VOTER**
26 **TO HAVE ACCESS TO THIS INFORMATION. THE METHOD OF NOTIFICATION SHALL PROVIDE**
27 **REASONABLE RESTRICTIONS THAT ARE DESIGNED TO LIMIT TRANSMITTAL OF THE**
28 **INFORMATION ONLY TO THE VOTER.**

29 C. The county chairman of each political party represented on the
30 ballot may, by written appointment addressed to the early election board,
31 designate party representatives and alternates to act as early ballot
32 challengers for the party. No party may have more than the number of such
33 representatives or alternates which were mutually agreed upon by each
34 political party to be present at one time. If such agreement cannot be
35 reached, the number of representatives shall be limited to one for each
36 political party.

37 D. An early ballot may be challenged on any grounds set forth in
38 section 16-591. All challenges shall be made in writing with a brief
39 statement of the grounds prior to the early ballot being placed in the ballot
40 box. A record of all challenges and resulting proceedings shall be kept in
41 substantially the same manner as provided in section 16-594. If an early
42 ballot is challenged, it shall be set aside and retained in the possession of
43 the early election board or other officer in charge of early ballot
44 processing until a time that the early election board sets for determination
45 of the challenge, subject to the procedure in subsection E of this section,

1 at which time the early election board shall hear the grounds for the
 2 challenge and shall decide what disposition shall be made of the early ballot
 3 by majority vote. If the early ballot is not allowed, it shall be handled
 4 pursuant to subsection G of this section.

5 E. Within twenty-four hours of receipt of a challenge, the early
 6 election board or other officer in charge of early ballot processing shall
 7 mail, by first class mail, a notice of the challenge including a copy of the
 8 written challenge, and also including the time and place at which the voter
 9 may appear to defend the challenge, to the voter at the mailing address shown
 10 on the request for an early ballot or, if none was provided, to the mailing
 11 address shown on the registration rolls. Notice shall also be mailed to the
 12 challenger at the address listed on the written challenge and provided to the
 13 county chairman of each political party represented on the ballot. The board
 14 shall meet to determine the challenge at the time specified by the notice
 15 but, in any event, not earlier than ninety-six hours after the notice is
 16 mailed, or forty-eight hours if the notifying party chooses to deliver the
 17 notice by overnight or hand delivery, and not later than 5:00 p.m. on the
 18 Monday following the election. The board shall provide the voter with an
 19 informal opportunity to make, or to submit, brief statements regarding the
 20 challenge. The board may decline to permit comments, either in person or in
 21 writing, by anyone other than the voter, the challenger and the party
 22 representatives. The burden of proof is on the challenger to show why the
 23 voter should not be permitted to vote. The fact that the voter fails to
 24 appear shall not be deemed to be an admission of the validity of the
 25 challenge. The early election board or other officer in charge of early
 26 ballot processing is not required to provide the notices described in this
 27 subsection if the written challenge fails to set forth at least one of the
 28 grounds listed in section 16-591 as a basis for the challenge. In that
 29 event, the challenge will be summarily rejected at the meeting of the board.
 30 Except for election contests pursuant to section 16-672, the board's decision
 31 is final and may not be appealed.

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

37 G. If the vote is not allowed, the affidavit envelope containing the
 38 early ballot shall not be opened and the board shall mark across the face of
 39 such envelope the grounds for rejection. The affidavit envelope and its
 40 contents shall then be deposited with the opened affidavit envelopes and
 41 shall be preserved with official returns. If the voter does not enter an
 42 appearance, the board shall send the voter a notice stating whether
 43 the early ballot was disallowed and, if disallowed, providing the grounds
 44 for the determination. The notice shall be mailed by first class mail to the

1 voter's mailing address as shown on the registration rolls within three days
2 after the board's determination.

3 H. Party representatives and alternates may be appointed as provided
4 in subsection C of this section to be present and to challenge the
5 verification of questioned ballots pursuant to section 16-584 on any grounds
6 permitted by this section. Questioned ballots which are challenged shall be
7 presented to the early election board for decision under the provisions of
8 this section.