

ARIZONA STATE SENATE

RESEARCH STAFF



TO: MEMBERS OF THE SENATE
ELECTIONS COMMITTEE

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SUBJECT: Strike everything amendment to S.B. 1288, relating to logic and accuracy; testing

Purpose

Requires all electronic or electromechanical voting systems to be tested at the conclusion of all maintenance and programming and prescribes requirements relating to the conduct of the equipment testing.

Background

The county board of supervisors or other election officer in charge and the Secretary of State (SOS), for an election involving state or federal candidates, must have the automatic tabulating equipment and programs tested to determine that the equipment and programs will correctly count the votes cast for all offices and on all measures. The test must be observed by at least two election inspectors of different political parties and must be open to representatives of the political parties, candidates, the press and the public. The test must be conducted by processing group of ballots marked as preaudited to record a predetermined number of valid votes for each candidate and on each measure and must include for each office one or more ballots that have more votes than the number allowed by statute to test the ability of the automatic tabulating equipment and programs to reject such votes. If any error is detected, the cause must be determined and corrected, and an errorless count must be made before the automatic tabulating equipment and programs are approved ([A.R.S. § 16-449](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires all electronic or electromechanical voting systems to be thoroughly tested at the conclusion of all maintenance and programming.
2. Requires the test to be sufficient to determine that the voting system and all of the voting system input, output and communication devices are working properly.
3. Requires the county office in charge of elections, at least 25 days before the commencement of early voting, to publicly test the automatic tabulating equipment to ascertain that the equipment will correctly count the votes cast for all offices and measures.
4. Authorizes the officer in charge of elections to conduct an additional test up to 10 days before election day, if the ballots for the polling place are not available at the time of testing.

5. Requires, at least 48 hours before the test, the officer in charge of elections to provide a public notice of the time and place of the additional test on the county website, officer in charge of election's website or at least one newspaper of general circulation in the county.
6. Stipulates that, if the outlined website is unavailable or if there is no newspaper as outlined, then the notice must be posted in at least four conspicuous places in the county.
7. Authorizes the officer in charge of elections to give written notice of the time and place of the public preelection test to each qualified candidate and obtain a signed receipt of notice.
8. Requires the SOS to provide written notice to each statewide candidate at the time of qualifying or immediately at the end of qualifying that the voting equipment will be tested and advise each candidate to contact the officer in charge of elections as to the time and location of the public preelection test.
9. Requires the officer in charge of elections, at least 30 days before the commencement of early voting, to send written notice by certified mail to the county party chairperson of each political party and all candidates for other than statewide office whose names appear on the ballot in the county and who did not receive written notification from the office in charge of elections at the time of qualifying that states the time and location of the public presentation test of the automatic tabulating equipment.
10. Requires an accuracy board to convene and each member of the board to certify the accuracy of the test.
11. Authorizes the accuracy board to designate one member to represent the board for the test.
12. Requires the test to be open to representatives of political parties, the press and the public.
13. Allows each political party to designate one person with expertise in the technology field, election management systems or elections procedures.
14. Requires the political party designees to be allowed in the central counting room when all tests are being conducted and when the official votes are being counted.
15. Prohibits the political party designee from interfering with the normal operation of the accuracy board.
16. Requires the public testing for electronic and electromechanical voting systems configured to tabulate vote by mail ballots at a central or regional site to be conducted by processing a preaudited group of ballots produced so as to record a predetermined number of valid votes for each candidate and measure and to include one or more ballots for each office that has activated voting positions in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes.

17. Stipulates that, if an error is detected from the test with mail ballots, then the cause must be corrected and an errorless count must be made before the automatic tabulating equipment is approved.
18. Requires the test with mail ballots to be repeated and achieve errorless results immediately before the start of the official count of ballots and again after the completion of the official count.
19. Requires the programs and ballots used for the test with mail ballots to be sealed and retained under the custody of the accuracy board.
20. Requires all or a sample of the devices to be used in the election to be publicly tested for electronic or electromechanical voting systems configured to include electronic or electromechanical tabulation devices that are distributed to the precincts or vote centers.
21. Stipulates, that if a sample is to be tested, the sample must consist of a random selection of at least five percent or 10 of the devices for an optical scan system, whichever is greater.
22. Requires a sample of at least two percent of touchscreen systems used for voters with disabilities to be tested.
23. Requires the test to be conducted by processing a group of ballots, causing the device to generate results for the ballots processed and comparing the results generated to the results expected for the ballots that are processed.
24. Requires the group of ballots to be produced to record a predetermined number of valid votes for each candidate, on each measure and to include one or more ballots for each office that have activated voting positions in excess of the number allowed by law in order to test the ability of the tabulating device to reject such votes.
25. Requires a tested tabulating device that is found to have an error to be deemed unsatisfactory.
26. Allows the accuracy board, upon deeming a device unsatisfactory, to require all devices to be tested or declare all devices as unsatisfactory.
27. Requires, for each device deemed unsatisfactory, the accuracy board to:
 - a) take steps to determine the cause of the error;
 - b) attempt to identify and test other devices that could reasonably be expected to have the same error; and
 - c) test a number of additional devices sufficient to determine that all devices are satisfactory.
28. Stipulates that, if the operation or output of any tested tabulation device is an error, including the spelling or order of candidates, then the error must be reported to the accuracy board.
29. Requires the accuracy board to determine if the reported problem warrants deeming the device unsatisfactory.

30. Requires, after the completion of testing, the accuracy board or its representative, the political party representatives and the candidates or their representatives who attended the test to witness the resetting of each device that passes to a preelection state of readiness and the sealing of each device that passed so as to secure the device's state of readiness until the opening of the polls.
31. Classifies, as a class 4 felony, tampering with, opening, breaking or otherwise removing the seal and reprogramming the device without an authorization.
32. Requires the accuracy board or its representative to execute a written statement setting forth:
 - a) the tabulation devices tested;
 - b) the results of the testing;
 - c) the protective counter number of each tabulation device, if applicable;
 - d) the number of seals securing each tabulation device at the conclusion of testing;
 - e) any problems reported to the board as a result of the testing; and
 - f) whether each device tested is satisfactory or unsatisfactory.
33. Requires each tabulating device deemed unsatisfactory to be recoded, repaired or replaced and retested as satisfactory before the device may be used in an election.
34. Requires the accuracy board or its representative to announce the date, place and time that an unsatisfactory device will be retested.
35. Authorizes the accuracy board to notify each person present at the first testing by telephone about the retesting.
36. Requires the officer in charge of elections to keep all preelection electronic tabulation testing records and make the records available for inspection and reference during public preelection testing by any person in attendance.
37. Requires the records of testing to include the name of each person who tested the device, the date, place, time and results of each test for each device.
38. Requires the officer in charge of elections to retain the records of testing as part of the official records of elections.
39. Prioritizes an accuracy board member's need for access to the record over other attendees during testing so that accuracy board testing will not be delayed or hindered.
40. Requires any test relating to preelection testing of electronic tabulation devices that involve ballots to use test ballots created by the officer in charge of elections using actual ballots that have been printed for the election.
41. Stipulates that, if ballot-on-demand ballots will be used in the election, then the officer in charge of elections must create the test ballots using the same paper stock and ballot-on-demand technology that will be used in the election.
42. Repeals statute relating to election equipment and programs testing requirements.
43. Becomes effective on the general effective date.