



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1338

paper ballots; hand count; precincts

Purpose

Prohibits the use of electronic voting and tabulating devices, unless required to comply with accessibility requirements. Requires paper ballots to be used in all elections and counted by hand. Prohibits a county board of supervisors (county BOS) from using voting centers.

Background

The Secretary of State (SOS) must appoint a three-member Equipment Certification Advisory Committee to investigate and test various types of vote recording and tabulating machines or devices that may be used for elections. The Equipment Certification Advisory Committee must submit its recommendations to the SOS, who makes final adoption of the types, makes and models of elections machines and devices to be certified for use in Arizona ([A.R.S. § 16-442](#)). All state, county, city or town elections, agricultural improvement district elections and primary elections must be conducted using voting or marking devices and vote tabulating devices authorized by the SOS ([A.R.S. § 16-443](#)).

A county BOS must establish a convenient number of election precincts in the county and define the boundaries of the precincts. A county BOS, on a specific resolution, may authorize the use of voting centers in place of, or in addition to, specifically designated polling places. A voting center must allow any voter in the county to receive the appropriate ballot for the voter on election day after presenting identification ([A.R.S. § 16-411](#)).

If any ballot is damaged or defective and cannot be properly counted by automatic tabulating equipment, a duplicate copy must be made and substituted for the damaged or defective ballot in the presence of witnesses. If the counting center automatic tabulating equipment includes a certified electronic vote adjudication feature, a county BOS or officer in charge of elections must appoint an Electronic Vote Adjudication Board ([A.R.S. § 16-621](#)).

The county officer in charge of elections must conduct a limited hand count audit for each countywide primary, special, general and presidential preference election. The hand count must be conducted on at least the greater of two percent of the precincts in the county or two precincts ([A.R.S. § 16-602](#)).

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

Provisions

1. Prohibits the use of electronic voting and electronic or other tabulating devices in all state, county, city and town elections, agricultural improvement district elections and primary and general elections, unless otherwise required to comply with statutory requirements for accessible voting machines.

FACT SHEET

S.B. 1338

Page 2

2. Requires, for state, county, city or town elections, only paper ballots to be used and tabulated by hand.
3. Prohibits a county BOS or any officer in charge of elections from authorizing, establishing or using a voting center and requires a county to use polling places located at election precincts.
4. Prohibits the SOS from approving electronic voting machines or electronic tabulating machines for general use, unless required to comply with statutory accessibility requirements.
5. Repeals the authorization for:
 - a) a county BOS to establish voting centers or emergency voting centers;
 - b) the governing body of a city or town to use electronic voting systems or vote tabulating devices approved by the SOS;
 - c) the SOS or a governing body of a city or town to provide for the experimental use of a voting system or device without final adoption by the Equipment Certification Advisory Committee; and
 - d) electronic vote adjudication.
6. Repeals the Vote Count Verification Committee.
7. Requires an election judge, for any primary, special or general election, to compare the number of votes cast as indicated from paper ballots, rather than as indicated on a voting machine or tabulator, with the number of votes cast as indicated on the poll list.
8. Requires ballots to be organized and remain segregated by precinct before and after counting at a central counting center.
9. Repeals requirements related to:
 - a) post-election hand count audits conducted on a percentage of precincts and early ballots;
 - b) duplication of damaged or defective ballots;
 - c) filing computer election programs with the SOS;
 - d) electronic voting equipment for automatic recounts; and
 - e) the means of financing tabulating equipment by a county BOS.
10. Modifies the definition of a *voting device* to include an apparatus that a voter uses to record the voter's votes by marking a paper ballot, which is subsequently counted by hand, rather than by electronic tabulating device.
11. Applies the casting or tallying of ballots at a counting center to the class 3 felony classification for a person who knowingly substitutes, forges, counterfeits or tampers with ballot tabulation or totals or election results by electronic means.
12. Makes technical and conforming changes.
13. Becomes effective on the general effective date.

Prepared by Senate Research

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MH/slp