



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1259

recounts; requests; procedures; audits

Purpose

Increases the minimum number of precincts included in post-election hand counts. Allows the Attorney General (AG), Secretary of State (SOS) or Legislative Council to request a recount in an election or portion of an election. Allows an Arizona resident to file an action and bond in superior court for a recount of any election or portion of an election that is not subject to an automatic recount.

Background

The county officer in charge of elections must conduct a hand count for each countywide primary, special, general and presidential preference election. The hand count must be conducted pursuant to statute and in accordance with procedures established by the SOS in the Elections Procedures Manual (EPM). The hand count must be conducted on at least the greater of two percent of the precincts in the county or two precincts. Only ballots cast in polling places and ballots from direct recording electronic machines are included in the hand counts ([A.R.S. § 16-602](#)). The EPM stipulates that each vote center is considered a precinct or polling location in counties that use vote centers and requires the county officer in charge of elections to conduct a hand count on at least two percent of vote centers or two vote centers, whichever is greater ([EPM, Ch. 11 \(IV\)](#)).

A recount of the vote is required when the canvass of returns in a primary or general election has a margin separating candidates or ballot measures of less than or equal to the lesser of: 1) one-tenth of one percent for candidates or ballot measures; or 2) between 10 and 200 votes, depending on the type of office or ballot measure ([A.R.S. § 16-662](#)). After the recount is conducted, the results must be presented in the appropriate superior court, which must announce the results and enter an order setting forth its determination ([A.R.S. § 16-665](#)).

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

Provisions

Post-Election Hand Count Audit

1. Requires the county officer in charge of elections to conduct a hand count in a primary, special, general or presidential preference election on at least the greater of 5 percent of precincts or the number of precincts required to achieve a statistical significance consisting of a 99 percent confidence level with a margin of error of 1 percent, rather than the greater of 2 precincts or 2 percent of the county precincts.

2. Requires, for a county with a population of 800,000 or more persons, a hand count audit to be conducted on the greater of the following, rather than the lesser of 1 percent of early ballots cast or 5,000 early ballots:
 - a) the number of early ballots necessary to achieve a statistical significance consisting of a 99 percent confidence level with a margin of error of 2 percent; or
 - b) 10,000 early ballots.
3. Requires, for a county with a population of fewer than 800,000 persons, a hand count audit to be conducted on the number of early ballots necessary to achieve a statistical significance consisting of a 99 percent confidence level with a margin of error of 3 percent, rather than the lesser of 1 percent of early ballots cast or 5,000 early ballots.
4. Requires a hand count to be conducted on a precinct level and asserts that a vote center is deemed to be a precinct for the purposes of a hand count.
5. Requires a county recorder or other officer in charge of elections to provide the county chair of each political party with:
 - a) an estimate of the number of people needed to perform the hand count by 5:00 p.m. on the second Tuesday before the election; and
 - b) the final number of people needed to perform the hand count by 9:00 a.m. on the Wednesday following the election.

Recounts Requested by the AG, SOS or Legislative Council

6. Allows the AG, SOS or Legislative Council, within five days after completion of the canvass, to request a recount by hand count or voting equipment of any general election that does not trigger an automatic recount.
7. Allows the recount to be requested for the total number of votes cast in an election or the total number of votes cast at any precinct, voting center, district, other jurisdiction or any combination of those portions of a general election.
8. Requires the recount request to be submitted in writing to the applicable county recorder and county board of supervisors or other officer in charge of elections for the election being recounted.
9. Requires the SOS to receive a copy of a recount requested by the AG or Legislative Council.
10. Requires the AG and Legislative Council to receive a copy of a recount requested by the SOS.
11. Asserts that the expenses of the recount are a state charge.
12. Requires the recount to comply with statutory requirements and procedures for an automatic recount.
13. Allows a county recorder or other applicable election officer who is conducting a recount to continue with election preparation, comply with statutory deadlines and perform other duties required by law without regard to the recount.

14. Exempts elections for precinct committeemen, school district governing boards, community college district governing boards, fire district governing boards, fire district chiefs or secretary-treasurers or boards of other special districts from a recount requested by the AG, SOS or Legislative Council.

Recounts Requested by Filing a Bond in Superior Court

15. Allows an Arizona resident, by filing a bond with the superior court within five days after completion of the canvass, to file an action for a recount by hand count or by use of voting equipment in any general election not subject to an automatic recount.
16. Allow a recount to be requested for the total number of votes cast in an election or the total number of votes cast at any precinct, voting center, district, other jurisdiction or combination of those portions of a general election.
17. Requires the recount bond to be in a form and amount determined by the superior court as sufficient to provide for full reimbursement of the costs of conducting the recount.
18. Requires a recount initiated by filing a bond to be conducted in the same manner as an automatic recount.
19. Allows a county recorder or other applicable election officer who is conducting a recount to continue with election preparation, comply with statutory deadlines and perform other duties required by law without regard to the recount.
20. Exempts elections for precinct committeemen, school district governing boards, community college district governing boards, fire district governing boards, fire district chiefs or secretary-treasurers or boards of other special districts and ballot measures or questions for any of those jurisdictions from a recount requested by filing a bond in superior court.

Miscellaneous

21. Makes technical and conforming changes.
22. Becomes effective on the general effective date.

Amendments Adopted by Committee of the Whole

1. Requires a person to be an Arizona resident in order to file an action for a recount in any election not subject to an automatic recount by filing a bond with the superior court.
2. Exempts ballot measures or ballot questions for school districts, community college districts, fire districts or other special taxing districts from requirements related to a recount requested by filing of a bond in superior court by a person.
3. Makes a technical change.

Senate Action

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MH/slp