MEMORANDUM

Date: September 3, 2013

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Various Election Issues**

There are a number of issues being raised in the elections area of which the Board of Supervisors should be aware. The purpose of this memorandum is to advise the Board of these various issues and to provide additional information where appropriate.

1. Election Integrity Commission

Strategic Planning Director John Moffatt has transitioned out of the role of providing staff leadership to the Election Integrity Commission (EIC) due to his increasing involvement in economic development activities. Elections Director Brad Nelson will serve instead as an ex-officio, nonvoting member of the EIC. The EIC will continue to be relied upon and will meet as necessary at the Abrams Public Health Center, which is a convenient location for members, as well as supporting staff. The advice of the EIC will continue to be requested on matters regarding the conduct of elections and the evolving infrastructure systems needed to conduct modern elections. Mr. Nelson's service on the EIC will allow him to be a more direct resource as its members continue to work through the evolving landscape of elections administration.

2. Outdated Election Equipment

Pima County purchased equipment in the 1990s that scans ballots directly at the polling places. This scanning tabulation equipment needs to be replaced. There remain questions about whether it is worthwhile to invest in precinct-based polling equipment given the meteoric rise in voting by mail.

One recommended option is the casting of ballots at precincts and then bringing those ballots back, in a very secure, sealed ballot box, to one central location for tabulation. Although expense is not the primary reason for the proposed change, it will be more cost-efficient for taxpayers. Purchasing new precinct-level scanning equipment, with the accompanying accessible voting equipment, would cost $12,000 per polling place. With nearly 250 precincts, the cost would be roughly $3 million. Four machines capable of completing a centralizing count would cost approximately $500,000.

To test this method, the Vail incorporation election, which will be held on November 5, 2013, will be conducted using scanner-less election equipment; meaning ballots will be cast at four different polling locations and then securely transported to a central tabulating facility at the Elections Office located at 6550 S. Country Club Road. The Vail incorporation election will be an appropriate test of this method, since there are approximately 7,000 voters; and approximately 4,000 of these voters are on an early voting list and will be mailed an early ballot. Hence, there could be as many as 3,000 votes cast at the four polling locations in Vail on Election Day.

3. Pilot Use of Accessible Voting Equipment for the Vail Election

In 2006, Pima County began using touch screen voting equipment at our polling locations to comply with the Help America Vote Act, which requires an accessible device be available for voters with disabilities to vote independently and privately. These touch screen voting devices have been used very infrequently and are significantly expensive, but will have to be updated if we change our precinct based election equipment.

A new system will be piloted at the Vail incorporation election. This new device uses an off-the-shelf, easily available computer tablet or laptop, which allows the disabled voter to vote privately and independently. One advantage this tablet system will have over the previous system is greater assurance of transparency, since the tablet will then print a verified paper ballot that can be used for auditing purposes. Attached is information regarding these devices that provide easily accessible, tablet screen voting, as well as the production of verifiable paper ballots for confirmation by the voter, as well as for election auditing purposes. These tablets cost far less than previously used touch screen devices.

4. Electronic Poll Books

Printing and distribution of voter rosters has been problematic in the past due to voters making last minute changes to their existing voter registration information and/or casting an early ballot immediately prior to Election Day. These changes present challenges to producing updated and accurate voting rosters; given that by law, the large binders of paper rosters are produced 10 days in advance of an election and are what have led to most of our most recent issues regarding election operations on Election Day, where a significant number of provisional ballots have been cast. The advent of electronic poll books should significantly mitigate these past problems and issues.

The electronic poll books will allow for much faster check-in of voters, since they allow the electronic scanning of voter identification and also will eliminate long hours of manual data entry to update voting history.

In cooperation with the Pima County Recorder, we will begin examining the options for using the iPad-based, electronic poll books and anticipate electronic poll books and rosters can be used in the next General Election.

5. Reduction in the Number of Precincts for 2014

Based on present law, the Board must establish election precincts for 2014 no later than December 1, 2013. Given the increasing reliance on early voting (approximately 62 percent of Pima County voters utilize early voting), the number of polling places can continually be reduced. Our Elections Department estimates the current 288 precincts can be reduced by another 40 precincts to approximately 248 from a high of over 400 precincts. Precinct reduction provides a substantial cost savings in conducting election, since labor costs at each polling place are roughly $1,400, not including any facility rental fees that might be applicable. The Board will be advised in detail regarding proposed precinct consolidations and changes well before the December 1, 2013 deadline to allow the Board sufficient time to consider the changes before acting on the required re-precincting.

6. Primary and General 2014 Elections Will Become Very Complex

Recent legislation requires that regular municipal elections be included in the County Primary and General Election ballots commencing in 2014. The Cities of Tucson and Phoenix have prevailed in a court case that exempts them from the legislation; however, it is unclear if other jurisdictions in Pima County will request exemption or will conduct their elections on the Primary and General 2014 Election cycle. Presently, there are no procedures from the State as to how to administer a partisan primary election and a nonpartisan municipal election simultaneously. In addition and adding complexity to the discussion is the potential need to separate the election ballots based on voter registration requirements given the recent ruling of the Ninth Circuit Court of Appeals. For more details on this issue, please see the attached letter from the Arizona Secretary of State to the Arizona Attorney General.

7. All-mail Elections

It is likely legislation will be introduced at the state level allowing or requiring that County elections be conducted as all-mail elections. Currently, State law does not permit such. At the urging of the Yavapai County Recorder and the Yavapai Board of Supervisors, the County Supervisors Association may propose legislation to allow each Board of Supervisors to declare all elections as all-mail elections if the County has at least 50 percent of its voters on the permanent early voting list. Pima County currently has 62 percent of our voters on this list.

CHH/mjk

Attachments

c: Martin Willett, Chief Deputy County Administrator
Brad Nelson, Elections Director
Chair and Members, Election Integrity Commission

KEN BENNETT
SECRETARY OF STATE
STATE OF ARIZONA

August 20, 2013

Office of the Attorney General
Mr. Tom Horne
1275 West Washington St.
Phoenix, AZ 85007-2926

Dear Attorney General Horne:

The United States Supreme Court issued its opinion in Arizona v. Inter Tribal Council of Arizona, Inc., on June 17, 2013. While affirming the 9th Circuit Court of Appeals decision finding preemption, the Court made it abundantly clear that the National Voter Registration Act of 1993 (NVRA) requires states "to permit perspective voters to register to vote in elections for *Federal office* (emphasis added) . . ." using the federal form.

In 2004, Arizona voters approved the initiative measure Proposition 200. Among other things, Proposition 200 requires Recorders to "reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship."

While Arizona may be preempted from asking voters to attach additional documentation to the federal form that demonstrates citizenship absent EAC approval, using the federal form does not preclude Arizona from using information in our possession to establish eligibility for state elections. Indeed, approximately ninety percent of applicants using the federal form provide an Arizona driver license number or social security number that is compared against databases and establishes satisfactory evidence of citizenship.

Could you answer the following questions per 41-193, Arizona Revised Statutes:

1) For the other ten percent of applicants, who use the federal form and who do not provide sufficient information to determine citizenship, are those applicants permitted, under Arizona law, to be registered to vote in state and local elections?

2) If the answer to question 1 is "no" then is there sufficient authority and is the state required, per Proposition 200 and the recent Supreme Court opinion, to issue "federal election only" ballots to those applicants?

3) If the answer to question 1 is "no" then are individuals who registered using the federal form, and who failed to provide a driver license number or SSN, qualified to sign candidate, initiative, referendum and recall petitions for state and local matters?

Sincerely,

Ken Bennett
Secretary of State

1700 W. Washington Street, 7th Floor
Phoenix, Arizona 85007-2808
Telephone (602) 542-4285 Fax (602) 542-1575
www.azsos.gov

16-204. Declaration of statewide concern; consolidated election dates; definition

A. The legislature finds and determines that for the purposes of increasing voter participation and for decreasing the costs to the taxpayers it is a matter of statewide concern that all elections in this state be conducted on a limited number of days and, therefore, the legislature finds and declares that the holding of all elections on certain specific consolidated days is a matter of statewide concern. This section preempts all local laws, ordinances and charter provisions to the contrary.

B. For elections held before 2014 and notwithstanding any other law or any charter or ordinance of any county, city or town to the contrary, an election held for or on behalf of a county, city or town, a school district, a community college district or special districts organized pursuant to title 48, chapters 5, 6, 8, 10, 13 through 16 and 33 may only be held on the following dates:

1. Except for regular elections for candidates in a city or town with a population of one hundred seventy-five thousand or more persons, all elections, including recall elections and special elections to fill vacancies, shall be held on:

(a) The second Tuesday in March.

(b) The third Tuesday in May.

(c) The tenth Tuesday before the first Tuesday after the first Monday in November.

(d) The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes by a county, city, town, school district, community college district or special taxing district, except as provided by title 48.

2. For regular elections that are only for candidates in a city or town with a population of one hundred seventy-five thousand or more persons and not including recall elections and special elections to fill vacancies in those cities or towns, elections shall be held on:

(a) The tenth Tuesday before the first Tuesday after the first Monday in November.

(b) The first Tuesday after the first Monday in November.

C. For elections held before 2014, for any city or town, including a charter city, that holds its regularly scheduled candidate elections in even-numbered years pursuant to subsection B, paragraph 2, the term of office for a member of the city council or for the office of mayor begins on or after the second Tuesday in January in the year following the election.

D. Subsections B and C of this section do not apply to an election regarding a county or city charter committee or county or city charter proposal that is conducted pursuant to article XIII, section 2 or 3 or article XII, section 5, Constitution of Arizona.

E. Beginning with elections held in 2014 and later and notwithstanding any other law or any charter or ordinance to the contrary, a candidate election held for or on behalf of any political subdivision of this state other than a special election to fill a vacancy or a recall election may only be held on the following dates and only in even-numbered years:

1. The tenth Tuesday before the first Tuesday after the first Monday in November. If the political subdivision holds a primary or first election and a general or runoff election is either required or optional for that political subdivision, the first election shall be held on this date, without regard to whether the political subdivision designates the election a primary election, a first election, a preliminary election or any other descriptive term.

2. The first Tuesday after the first Monday in November. If the political subdivision holds a general election or a runoff election, the second election held shall be held on this date. If the political subdivision holds only a single election and no preliminary or primary or other election is ever held for the purpose of reducing the number of candidates, or receiving a partisan nomination or designation or for any other purpose for that political subdivision, the single election shall be held on this date.

F. Beginning with elections held in 2014 and later that are not candidate elections, an election held for or on behalf of any political subdivision of this state, and including a special election to fill a vacancy or a recall election, may only be held on the following dates:

1. The second Tuesday in March.

2. The third Tuesday in May.

3. The tenth Tuesday before the first Tuesday after the first Monday in November.

4. The first Tuesday after the first Monday in November. Notwithstanding any other law, an election must be held on this date for the approval of an obligation or other authorization requiring or authorizing the assessment of secondary property taxes by a county, city, town, school district, community college district or special taxing district, except as provided by title 48.

G. Notwithstanding any other law, for an election administered by a county recorder or other officer in charge of elections on behalf of a city, town or school district and that is an all mail ballot election for that city, town or school district, the county recorder or other officer in charge of elections may use a unified ballot format that combines all of the issues applicable to the voters in the city, town or school district requesting the all mail ballot election.

H. UPON A DETERMINATION OF THE COUNTY BOARD OF SUPERVISORS THAT A SUFFICIENT AMOUNT OF REGISTERED VOTERS ARE ON THE PERMANENT EARLY VOTING LIST PURSUANT TO A.R.S. 16-544, THE COUNTY BOARD OF SUPERVISORS MAY CONDUCT A MAIL BALLOT ELECTIONS FOR THE PURPOSES OF INCREASING VOTER PARTICIPATION AND FOR DECREASING THE COSTS TO THE TAXPAYERS. A MAIL BALLOT ELECTION SHALL BE CONDUCTED AS OTHERWISE PRESCRIBED BY TITLE 16, CHAPTER 4, ARTICLE 8.1.

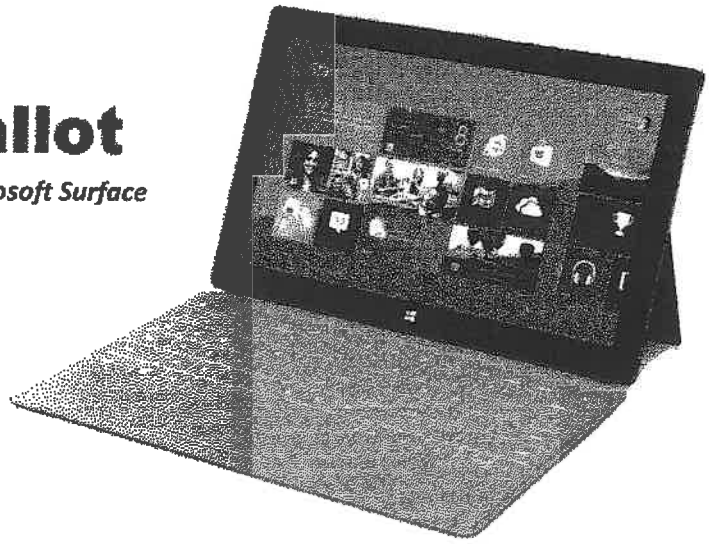
~~H.~~ I. For the purposes of this section, "political subdivision" means any governmental entity operating under the authority of this state and governed by an elected body, including a city, town, county, school district, community college district or any other district organized under state law but not including a special taxing district.

Meet your Next Disabled Access Unit

Presented by Democracy Live in Partnership with Microsoft

LiveBallot

On Microsoft Surface



- Replace your old DRE's with an off-the-shelf, lightweight tablet
- Meets all HAVA accessibility requirements
- No federal certification required
- Prints paper trail
- No wireless required
- Easy storage and portability
- Multi-use device – Balloting, Poll Book, VR Registration, etc.
- Prints ballots direct from tablet
- Ready for Auto Duplication and BOD
- Available for 2013 elections
- Funding Available
- Powered by Democracy Live and Microsoft