



PIMA COUNTY ELECTION INTEGRITY COMMISSION
MEETING MINUTES FOR August 21, 2015
<http://www.pima.gov/commission/ElectionIntegrity.shtml>

The Pima County Election Integrity Commission met in regular session on August 21, 2015 at 9:00 a.m. in the Herbert K. Abrams Building, 1st Floor Conference Room #1104 at 3950 S. Country Club Road, Tucson, Arizona.

ITEM 1. ROLL CALL

Present: Karen Schutte, Beth Borozan, Bill Beard, Brad Nelson, Jeff Rogers, Matt Smith, Arnie Urken, Chris Cole, Brian Bickel, Barbara Tellman and Tom Ryan via teleconference.

Also Present: Honorable Michele Reagan, Arizona Secretary of State and staff; Ellen Wheeler, County Administrator's Office; Sara Balentine, EIC Coordinator.

ITEM 2. PLEDGE OF ALLEGIANCE

The American flag was saluted with the Pledge of Allegiance.

ITEM 3. APPROVAL OF MINUTE SUMMARY – July 17, 2015

It was moved by Chris Cole, seconded by Brian Bickel and carried unanimously to approve the Minutes of the July 17, 2015 meeting.

ITEM 4. CALL TO PUBLIC

No comments from the public; no public present.

ITEM 5. WELCOME TO SECRETARY OF STATE MICHELE REAGAN AND STAFF

- *Items 6 through 14 will be addressed to Ms. Reagan and Eric Spencer*

Barbara Tellman welcomed Michele Reagan, Arizona Secretary of State and asked Secretary Reagan to introduce the staff members with her. Secretary Reagan thanked the Election Integrity Commission for the invitation. It will be the focus of the new Secretary of State administration to get to know all the Arizona counties.

Secretary Reagan introduced Eric Spencer, State Elections Director. Eric came from Snell & Wilmer in the private sector, where he worked on election law. Eric in turn introduced his team:

- Kris Kingsmore, Deputy Elections Director who has 25 years of experience and great knowledge, and is Eric's right hand.
- Dan Carroll, Election Technology Manager; he is in charge of all the technological projects in the office, including L&A testing and election night reporting.
- Mary Fontes, long-time Secretary of State employee and HAVA specialist, and initiative, referendum and recall specialist.

- Greg Karidas, Election Division Administrator and new to the Secretary of State's office coming from the League of Cities and Towns; point of contact for the *Elections Procedures Manual* updates.

ITEM 6. STATUS OF REVISED *ELECTIONS PROCEDURES MANUAL*

- **Plans for public participation**
- **Proposed changes to *Manual***

Eric Spencer began the discussion by stating that the Secretary of State's office made a decision early on to "bifurcate" the structure of the process, holding city- and county-specific meetings before the public stakeholders participation starts in mid-September. They are receiving public proposals on the *Manual*, many of which are issues that they are already addressing.

Many of the changes to the *Manual* are updates to outdated material. For example the chapters on bifurcated voting were hastily written under exigent circumstances, but now that bifurcation is part of the voting system, that information will be more formalized. The forms at the back of the *Manual* are difficult to use; the forms will be made clearer and there will be Word versions of them available. Another example that needs to be updated is the chapter on recounts. A lot of the revisions will be for clarification more than policy changes.

They will review the submissions by the public before the public meetings begin; if the submission is a consensus change, it will preliminarily go into the draft shown during the public meeting. If a submission is deemed not good public policy, it will be a separate document put out for discussion at that meeting and the advocate for that change will have the floor to try and convince the group. All submissions in advance of that meeting will be heard and seriously considered.

Concerning the bifurcated voting system, Secretary Reagan shared that, rather than printing two separate ballots—the regular ballot and the Federal only ballot—some states are printing only one ballot and in the case of voters who had not provided proof of citizenship, their ballots are set aside and only Federal offices are counted. This also eliminates the "scarlet letter" feeling of those voters. Bill Beard asked if this procedure was permissible by Federal courts; Secretary Reagan stated there had been no challenges to the procedure in Federal court, and the Election Assistance Commission is aware of it.

Barbara Tellman asked if a change to state law would be required to do that; Eric Spencer responded that at a minimum, there would need to be a provision in the *Procedures Manual* which is being contemplated, but no language has been written for it and it would need to be in accordance with state law. Eric would like to hear from jurisdictions on printing costs associated with the Federal only ballot. The number of Federal only voters and the cost to print the Federal only ballots will factor into the cost benefit.

Another major change to the *Manual* that is being developed is the requirement that all election documents have an original signature. Secretary Reagan is launching a technological revolution that will bring elections on the level that the public is used to at their bank. The requirement for a "wet signature" precludes such things as forming committees and filing campaign finance reports online, submitting petition signatures electronically, etc. That is a requirement that is going to be loosened, and will be a discretionary policy with the filing officer. Secretary Reagan added that their goal is to make the *Manual* more permissive than restrictive in the sense of allowing rather than forcing something; having enabling language for the counties to use discretion but give enough uniformity

between counties to ensure that a vote that is counted in County A will also be counted or denied in County B.

Also, next year the [Election Law and Related Materials] statute books will also have references to the *Procedures Manual*.

Secretary Reagan and Eric also pointed out that their outreach for public comment covers the widest possible political spectrum including critics of this administration and of Republicans as a whole. In parallel to input on the *Manual*, the Secretary of State's Office will hold regular public meetings on a monthly or six-week basis for the rest of this year for input on election law changes. Secretary Reagan will also have quarterly conference calls with the counties.

ITEM 7. UNIFORMITY IN REPORTING AMONG COUNTIES

- **Challenges with varying data systems:**
 - **For voter registration data**
 - **For election results**
- **Status of project by Secretary of State to unify reporting**

Eric Spencer started this discussion with the need to achieve uniformity in the reporting of political party data so that all the political parties can use the data. On the election side, they are looking at ballot layout and term standardization; for example, one county will use U.S. Representative, another county will use U.S. Congress. Additionally, there are a number of reports required by the Secretary of State's *Manual*. There is currently no definition in the *Manual* about the format for these reports, so these need to be standardized. This includes the canvass.

ITEM 8. UPDATING ELECTION LAWS

- **Secretary of State's plans for election law revision**
- **Public input to election law revision**

Secretary Reagan stated that there are quite a few election laws—session law—that they will be seeking updates for. They are talking to constituents as well as recorders and election officers in the counties, and are compiling a list of items to put in the legislative package.

She combined her comments for Item 8 with Item 11, Funding for 2016 Presidential Preference Election, as they are part and parcel. The first bill they will ask the Legislature to do is supplemental appropriation for the counties for the PPE. She knows that \$1.25 per voter isn't enough to conduct a Presidential Preference Election. This was also not included in the budget and it needs to be. They will be asking the Legislature for roughly \$8 million, but they need more information from the counties on the true cost, as they expect the Legislature to come back for an explanation on the exact cost. The second bill that will follow is to remove the cost of future PPE elections from state general fund expense to party expense. Over a third of Arizona voters as independents cannot vote in the PPE and should not be required to pay for it.

Secretary Reagan also mentioned that their office will be working with the Clean Elections Commission on legislation going forward.

Eric Spencer explained that there are three main communities regulated by the Secretary of State's office, each undergirded by three separate sets of governing statutes: Candidates who run for office and campaign finance statutes in Title 16, lobbyists and lobbying statutes in Title 41, and public

officials who serve and financial disclosure statutes in Title 38. The statutes need a thorough reworking because they are outdated and overly verbose.

They will be unveiling their preliminary campaign finance rewrite on Tuesday [August 25th]. The draft has significantly condensed and shortened the statute, reducing the wording by 65%. There will now only be three different committees, down from nine: Candidate, PAC's and political party. With a standardization of committees, the laws regulating them will be standardized. They are proposing to raise the limit from \$500 to \$1,000. The \$500 Exemption Statement will be done away with. If a candidate is below the \$1,000 limit, they do not file any forms. Campaign finance will be integrated into the incredible new website to be launched in the future; the website will be much more flexible and mobile. They are clarifying many definitions and providing more exemptions for expenditures and contributions. All the necessary prohibitions are in the draft, and all the prophylactic measures to ensure that candidate money doesn't get mixed up with corporate money.

They want to go to a much more digital way of processing initiative petitions, removing the more constrictive paper-based requirements such as color of pen, and so the petition pages can be supplied to the counties electronically. Eric would like to put them all on their website so that public records requests will not be necessary and staff won't be tied up in the copy room for a week.

Secretary Reagan mentioned that data entered into the SOS campaign finance website will become interactive and it can be sorted in a number of ways. She cited a website where a user can query, for example, who the highest campaign contributor is, or which candidate has raised the most funds, and it will bring up the information as well as graphs. She said the website for Arizona will be far superior to this. And to support true transparency in campaign finance, she would like to have all candidates in all counties file campaign finance reports through one portal in the Secretary of State's Office. Cities and towns would retain their filing and audit authority. This would also promote uniformity in the campaign finance reporting systems throughout the state. But most cities and towns are still using paper reports, and if a citizen wants to find out who is contributing to a council candidate's campaign, they need to drive to that filing office and submit a public records request and pay for copies.

ITEM 9. CHANGING LAWS AND PROCEDURES TO DEAL WITH BALLOT IMAGES

- **Ballot images vs. ballots**
- **Value of ballot images for auditing and election transparency**
- **Are ballot images public records?**
- **Post-election disposition/retention of images**

Eric said that they presumptively believe that ballot images should be treated like paper ballots, and expressly incorporated into §16-624.A., as official election returns that shall be the property of the treasurer, and only freed upon court order. The *Manual* will be updated to deal with ballot images to give counties more information on how those images should be collected, transferred, stored and preserved.

Tom Ryan stated that there are places where images are released publicly, and he has not run into any instance where there is a problem with the release of the images, and he asked Eric what types of problems he foresees that makes him take that stand. Eric's response is that, for good reason, paper ballots are transferred into the custody of the treasurer and preliminarily, they see no good reason for deviating from §16-624.A. with respect to ballot images. Tom responded that there is the exception of election transparency. Eric then noted that, in their opinion at this point there is nothing unique about ballot images that require them to be treated differently in a post-election,

pre-canvass context than paper ballots. Tom still feels there are good reasons to reconsider this view point.

Arnie Urken added this to the discussion: If you take transparency and individual freedom seriously, you need to also consider the possibility that individuals don't have a choice between secrecy, which is not absolute because it is not that reliable, and complete transparency in the sense Tom is talking about, that ballots should be available for research and analysis. Has the Secretary of State ever considered the possibility that individuals should have a choice between either or? I as an individual can have a profile that says my vote should not be in a public database; the State gives this away to parties for free without my permission. There are court cases and precedents that say this sort of thing is OK, but those who make those decisions are party people, not citizens. If you want my data, I would be willing to give you a lot of my data so that you can sell that, as long as you give me some expectation about what you are going to do with the money. These are all things that are possible with digital controlled data, and the way we respond to these issues should go even further, to think about how you treat individual privacy.

Bill Beard commented that if the images are stored somewhere, someone will gain access to them and the public will have them. What steps will be taken moving forward to secure those images to maintain election integrity, election transparency, etc.? His thought is, treat the images as public documents, but until they are released, they are stored in the archive of the appropriate jurisdiction. The contest period is taken care of, state statute applies. It makes more sense to be proactive and get ahead of the game. Secretary Reagan added that, like it or not, the technology already exists and the laws are way behind the technology. Laws need to be on the books to deal with this issue.

Arnie Urken added that if these issues aren't discussed, and ways of handling them aren't developed, the vendors will do it for us, and could limit the ability of election officials to deal with problems as they arise. Jeff Rogers brought up the point that if the images become public, there is no way to tie the voter to a ballot, but Dan Carroll replied that now the possibility exists of voters being told by their employer that they must somehow identify themselves on the ballot, for example two "+" signs and initials, and threatened with a public records request to verify that the voter complied and voted for the individuals they were told to vote for. Tom brought up the point that in states such as Wisconsin that allow ballot images to be made public, there are laws that prohibit a voter from identifying themselves on the ballot. Arnie said that if you look at the federal cases on vote buying, the courts have said it's not wrong in a moral or political sense, but that the average voter doesn't have the knowledge they need to engage in good transactions so they have ruled out what they call retail level vote-buying and vote-selling. But the system operates on wholesale level vote-buying and vote-selling. So the technology is pushing us to consider the possibilities.

Eric's response to the discussion of vote buying was that there are two sub-issues. The first is, since ballot images are being created, laws need to be adapted to this fact and govern the creation, storage, transfer and security of those images. That will be addressed in the *Procedures Manual*. The second issue is, assuming there are protections from a security standpoint, what is a good public policy reason to allow the images to be displayed in ways we currently do not allow paper ballots to be displayed? You start with the Arizona Constitution which preserves secrecy in voting; A.R.S. §16-624.A has for a long time treated paper ballots as subject to release from the custody of the treasurer upon court order. The question is, what is it about a ballot image that would make us want to break from the long-standing tradition of A.R.S. §16-624.A, and treat a ballot image differently?

Tom Ryan added that the current statutes that require paper ballots to be kept in the custody of the treasurer are important, especially in the case of a recount. But protections could be put in place to ensure voter anonymity with ballot images. Jeff Rogers added that he believes public confidence in the integrity and transparency of elections would be increased with the ability to see the results of an election. As has been seen in the past, some elections have been doubtful at best.

Chris Cole restated that if the state does not allow ballot images to be made visible in some way, vendors will do it, because there do not appear to be any laws or regulations prohibiting vendors from claiming that the images are proprietary.

Secretary Reagan can see the merit of being able to review ballot images. She also sees the need for defining when an election is over. If ballot images are available, how many people would continue to go to court arguing about who won or lost the last election?

Jeff asked Tom how long Wisconsin had been making their images public, and if there had been any problems reported; Tom thought it had been about five to seven years, and Tom has not been able to find any problems where they have been released and he has done quite a bit of research.

Kris Kingsmore and Dan Carroll said that there will be requirements for the counties to scrub those off the servers, and there should not be any instances of a release of ballot images. Secretary Reagan acknowledged the value of this discussion, and laws need to be put in place ahead of a potential nefarious release of images. She would like to keep this dialogue going in the future.

Jeff asked if anything can be done about an election where there are no contests and it is costly to conduct the election; he has seen it happen in City of Tucson, Oro Valley, etc. Barbara added that for example, in the Primary, there may not be any Libertarian candidates, but Libertarian ballots still need to be printed. Kris Kingsmore noted that when the ability to cancel elections came about in the Legislature, it started with precinct committeemen and then later was expanded to school and special districts. She is not aware that anyone has presented the idea at a higher level.

Regarding more efficient use of ballot space, Kris said that removing the listing of names of electors for presidential candidates has been attempted for years, but it has never had much movement in the Legislature. There are alternatives for displaying these names, but space on ballots is at a premium.

[An article of interest that was distributed to Commission members relating to differing election laws within the United States is incorporated into these minutes as Attachment 1.]

ITEM 10. AUDITING WITH BALLOT IMAGES

- **Using ballot images for hand count audit purposes**
 - **Has the Secretary of State's Office considered this possibility?**
 - **How does current law address this possibility?**
 - **EIC advocating pilot project in upcoming election**
 - **Presenting recommendation for pilot project to Pima County Board of Supervisors**

Eric said that currently under statute, §16-602, an audit must be conducted by hand count, but it is possible to conduct a digital-based audit in addition to the hand count audit. The statute would need to be amended to allow counties to conduct an audit digitally as opposed to by-hand. The Secretary of State's office is aware of the pilot project proposed by the Election Integrity Commission, and does not see a problem assuming the county can handle it. It is a good idea. [A

copy of the memo the EIC sent to the Board of Supervisors concerning this pilot project is incorporated into these minutes as Attachment 2].

Barbara Tellman noted that when the hand count audit laws were written, it assumed that most people voted at the polls. With 75% of voters voting early, there should be a higher percentage of early ballots counted. Eric agreed that it needs to be updated; as we move to vote centers the significance of a polling place ballot dwindles exponentially. Vote centers are the wave of the future and more jurisdictions are moving to central count systems because of the cost and efficiency factors.

Tom Ryan added that using ballot images would significantly change the quality of the auditing process. Eric agrees; §16-602 was a good first step, but technology will allow for a much more comprehensive and accurate post-election, pre-canvass audit than is currently done.

ITEM 11. STATUS OF FUNDING FOR 2016 PRESIDENTIAL PREFERENCE ELECTION

- **Reimbursement to counties?**
- **What can be done for counties that cannot bear expense of holding PPE?**

In addition to Secretary Reagan's comments during the Item 8 discussion, Kris Kingsmore and Secretary of State staff have been working with their Chief Financial Officer, and have surveyed the counties to get actual costs for a PPE. They will continue to work on that in the next several weeks to have the appropriation ready for the Secretary. Eric added that they encourage counties to take advantage of the provisions in A.R.S. §16-248 and consolidate polling locations wherever possible.

There was discussion as to whether the Arizona Constitution would need to be amended if the PPE were to be held as a caucus rather than a primary. The consensus was that it wouldn't necessarily need to be; caucuses were held prior to being changed in the mid-1980's. And the consensus they [Secretary of State] have reached is that the PPE is a party function and should be moved in that direction.

Barbara Tellman asked if the appropriations request would be part of the budget, or will it be a separate request? Secretary Reagan responded it would be a separate request, and they are hoping it will have an emergency clause on it.

ITEM 12. CERTIFICATION REQUIREMENTS FOR ELECTION EQUIPMENT

- **Would the Arizona Secretary of State's Office consider a change to the Procedures Manual to allow certification of equipment with approval of an accredited testing lab but without a federal EAC certification number?**
- **How should the State's role in setting standards evolve given the lack of action at the federal level?**
- **Status of other counties' use of non-certified equipment on an experimental basis?**

Eric said they are open to changing the EAC stamp but strongly prefer to replace it with something that offers equivalent confidence in a system. At this point, they are not comfortable abandoning the EAC certification and leaving it to just the VSTL's [voting system test laboratories] to test the equipment. Any equipment that is not for tabulation doesn't need an EAC stamp. But for tabulating equipment they would prefer the group of experts to give them recommendations on what they can replace the EAC stamp with. Currently, the VSTL's provide the EAC with a report for review and then the EAC makes a determination on the equipment. The Secretary of State's office is wary of

removing the need for the EAC stamp in the *Procedures Manual* and just relying on statute which does not require the stamp. Dan Carroll clarified that the EAC actually has a full staff that reviews the VSTL reports, and uses a rigorous process using point by point guidelines of what it can and can't do to ensure the equipment is HAVA compliant and can be used for federal elections. If Dan receives an application from a vendor that has an EAC stamp, he feels comfortable that it has been thoroughly reviewed by those who have the professional knowledge.

Barbara asked about the Yavapai County situation. Eric said one of the things they want to update in the *Procedures Manual* is the concept of "experimental use." They are going to clarify that a county cannot go out to RFP and purchase equipment unless it is certified. It is bad public policy to purchase or lease equipment that is not certified on the day the signature goes on the contract. It must be an RFP requirement that a responding bidder have the stamp or the state equivalent that will replace it.

Brian Bickel believes that in the reasonably near future, voting will be done electronically. He asked if the State is looking into how to certify that. Secretary Reagan responded that when she was at the last NASS meeting [National Association of Secretaries of State], they were showing the latest and greatest technology in the frontier of internet voting. Mainly, it is being tested on military voters, but it isn't as advanced in the area of security as they would like it to be. Barbara asked if this moves ahead, would the programs used need to be certified; Secretary Reagan responded they would. But based on what the Secretaries saw six weeks ago at the NASS meeting, the technology is a long way off. Secretary Reagan is in favor of technology, but at this point the electorate isn't there. Dan is working on a mobile app that informs voters where polling centers are and other election information. Matt Smith commented that the millennial generation does not trust the way the government handles electronic data, and government needs to establish that trust.

Secretary Reagan excused herself to go to another meeting at the Tucson SOS office but said that she would like to come back for a future meeting, possibly November.

ITEM 13. HAVA FUNDS AT STATE LEVEL

- **Status of unused HAVA funds at the state level**
- **Proposals under consideration for their use by counties or the state**

Eric stated that there is currently \$4.8 million in HAVA funds, but it is spoken for. There is no more money available for counties. It is very costly to maintain the HAVA required statewide voter registration system, and they need to replace or substantially upgrade it. The contract is set to expire early next year.

ITEM 14. PRIVATE COMPANIES ISSUING DRIVER'S LICENSES

- **What is required of them regarding voter registration?**

Eric explained that these third party providers are subject to the same obligations and restrictions as an MVD office, including voter registration. When issuing a driver's license to someone who is a non-citizen, they will issue a type "F" license, which can be caught by the county recorders if the individual also registers to vote.

Before departing, Eric Spencer thanked the Commission for the invitation. He is very glad that this forum exists where election officials can discuss issues. He also thanked EIC for their existence; if it

weren't for bodies such as this, government wouldn't expand the "group think" mentality and wouldn't be held accountable. In closing, he said that they would love to come back to another meeting.

ITEM 15. ELECTION NIGHT REPORTING

- **Information about a vendor issue**

Barbara added this item for discussion of the article that was distributed concerning the Secretary of State's not renewing the contract with the election night reporting vendor [a copy of this article is incorporated into these minutes as Attachment 3]. There was no discussion.

ITEM 16. REVISIONS TO BYLAWS – Chris Cole

Chris Cole made a motion to continue this item till the next meeting, Bill Beard seconded, and the motion carried unanimously.

ITEM 17. FUTURE AGENDA ITEMS

Tom Ryan requested an item for Brad to discuss the response from ES&S on security questions posed by the Commission.

Barbara requested an item about the City of Tucson Primary Election.

ITEM 18. NEXT MEETING DATES

The next two meeting dates will be September 18, 2015 and October 16, 2015.

ITEM 19. ADJOURNMENT

It was moved by Brian Bickel and seconded by Bill Beard and unanimously carried to adjourn the meeting. The meeting adjourned at 12:00 noon.

Voter ID, registration and early voting laws vary widely across America

Meghann Evans/Winston-Salem Journal | Posted: Sunday, July 19, 2015 12:05 am

Across the United States, eligible residents have the opportunity to join voter rolls and vote, but they don't all have the same options or ease of access.

Voting laws vary widely from state to state.

"There are certain federal requirements that limit state discretion," said John Dinan, a political science professor at Wake Forest University. "For instance, states cannot set a registration closing deadline of greater than 30 days before an election. But for the most part, states have significant discretion in how they provide for voting to take place."

For example, about two-thirds of the states allow in-person early voting, but the early voting periods range anywhere from four to 45 days. About two-thirds of states currently require voters to present identification of some kind at the polls, but they vary greatly in what kind of documents they require and what they do if a person doesn't provide it.

"Some states have certainly made it easier than others," said Jason Husser, assistant professor of political science at Elon University.

In 2013, the North Carolina General Assembly passed a sweeping election law that eliminated same-day voter registration, reduced early voting from 17 days to 10, and added a photo ID requirement, among other changes.

The N.C. NAACP, the League of Women Voters, the U.S. Department of Justice and others sued North Carolina and Gov. Pat McCrory over the law. The law went on trial last week in federal court in Winston-Salem.

Plaintiffs in the lawsuit contend the law is racially discriminatory and places unfair burdens on blacks and Hispanics, the poor and the young. Attorneys for the state and McCrory deny the allegation and argue that the law gives everyone an equal opportunity to vote.

North Carolina's law has drawn a lot of attention because of the scope of the changes, as well as the timing of it.



VOTING

Volunteers with Democracy N.C. gave out stickers and candy to students at West Forsyth High School who registered or pre-registered to vote in 2012.

Republican legislators pushed an expanded elections bill through a month after the U.S. Supreme Court invalidated part of the Voting Rights Act of 1965 that had required certain states and communities to seek federal approval to change election laws.

“If the federal courts give the green light to North Carolina to roll back its voting rules in this way, then I expect we’ll see some other states with Republican legislatures following suit,” said Rick Hasen, an elections law expert at the University of California, Irvine School of Law.

Voter ID

Voter ID laws have been a hot topic of debate nationally, with some saying that a voter ID is unnecessary and others arguing that it prevents fraud.

The Brennan Center for Justice at the New York University School of Law, which tracks election laws, reported in June 2014 that 13 states had passed more restrictive voter ID laws between 2011 and 2014, including North Carolina.

About two-thirds of states require an ID of some kind.

“But this is just the start of the variation among states in this regard,” Dinan said, “because there are varying levels of strictness in state ID requirements, with some states allowing a nonphoto ID and some states requiring a photo ID. And then there are additional decisions to be made about what forms of photo ID are permissible and what is the procedure for when someone shows up at the polls without a photo ID.”

According to the National Conference of State Legislatures, a bipartisan organization which tracks legislation nationally, 34 states as of March 24 had passed laws requiring voters to show some form of identification at the polls. Laws in 32 states were in force. Pennsylvania’s law was struck down, and North Carolina’s photo ID requirement does not go into effect until 2016.

In 2014, 21 states had nonstrict voter ID requirements, and 10 had strict requirements, not counting states like North Carolina whose law had not gone into effect. Fifteen of the states asked for a photo ID and 16 also accepted a nonphoto ID. Eight of the states — Georgia, Indiana, Kansas, Mississippi, Tennessee, Texas, Virginia and Wisconsin — had strict photo ID laws, but some were in limbo because of litigation.

As the National Conference of State Legislatures defines it, nonstrict laws mean “at least some voters without acceptable identification have an option to cast a ballot that will be counted without further action on the part of the voter.” Under a “strict” law, “voters without acceptable identification must vote on a provisional ballot and also take additional steps after Election Day for it to be counted.”

The North Carolina legislature voted last month to soften its photo ID mandate. Voters who claim that a “reasonable impediment” prevented them from getting a qualified ID will be able to sign a declaration form and provide their birth date and the last four digits of their Social Security number,

or show a voter registration card or other acceptable document.

Because of the change, the voter ID provision is not part of the federal hearing in Winston-Salem.

Early voting

About two-thirds of the states, including North Carolina, allow some form of in-person early voting.

According to the National Conference of State Legislatures, there were 33 states as of Feb. 11 that allowed qualified voters to cast a ballot in person during a period before Election Day. Fourteen states — all in the eastern half of the nation — did not offer early voting and required an excuse to request an absentee ballot.

Three states — Colorado, Oregon and Washington — conduct all elections by mail, where a ballot is automatically mailed to every registered voter. At least 19 other states allowed some elections to be conducted by mail.

Early voting periods range from four days to 45 days in length, and the average across the 33 states is 19 days, the National Conference of State Legislators said.

North Carolina's early voting period is 10 days long under the new law. It used to be 17 days, but legislators shortened it by a week while requiring the same number of hours to be offered. Now the early voting period begins the second Thursday before an election and ends at 1 p.m. the Saturday before Election Day.

All states will mail absentee ballots to certain voters who request one, but in 20 states, an excuse is required. North Carolina does not require an excuse.

Several states permit voters to join a permanent absentee voting list, where a voter will receive an absentee ballot automatically for all future elections. As of last year, the list included Arizona, California, Hawaii, Montana, New Jersey and Utah. At least nine other states offered the option to a limited number of voters.

Registration

Registration options also vary widely from state to state.

In North Carolina, the deadline to register to vote is 25 days before the date of an election. In 2013, the legislature voted to end the same-day registration option, which allowed voters to register and vote on the same day during early voting. That is part of the current trial in U.S. District Court in Winston-Salem.

According to the National Conference of State Legislatures, 11 states as of June 2 allowed residents to register and vote on Election Day: Colorado, Connecticut, Idaho, Illinois, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming. California, Hawaii and Vermont enacted same-

day registration that had not been implemented. Utah also enacted a pilot project in 2014 for Election Day registration, to run through 2016.

In most other states, voters have to register before Election Day, and most deadlines fall between eight to 30 days before an election, the organization said.

Jonathan Brater, counsel in the Democracy Program at the Brennan Center for Justice, said, "There are states that have moved to modernize voter registration with things like online voter registration, which has been popular in both Republican- and Democratic-controlled states."

North Carolina does not offer online voter registration, but 21 states did as of July 1, the National Conference of State Legislatures said. Another six states have authorized online voter registration but have not implemented it. Florida, Oklahoma and New Mexico are the most recent states to authorize it. These systems supplement paper registration by allowing residents to submit their applications online. In most states, the applicants typically must have a corresponding record in the database of the state's motor vehicle agency.

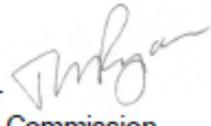
In March, Oregon became the first state to vote to automatically register eligible citizens who have a driver's license. The Brennan Center for Justice reported that 14 additional states soon after introduced legislation for automatic registration.

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ELECTION INTEGRITY COMMISSION

Pima County, Arizona

TO: Honorable Chair and Members
Pima County Board of Supervisors

FROM: Tom Ryan, Chair 
Election Integrity Commission

DATE: April 17, 2015

RE: Recommendation to Use Ballot Images to Enhance Early Ballot Audit

The Pima County Election Integrity Commission (EIC) recommends that the Board direct the County Elections Department to conduct a **Pilot Study** on the use of ballot images to enhance the integrity of the post-election hand count for early ballots. Ballot images will be available in future elections with the recently purchased central count tabulation equipment. This will make it possible to hand count early ballots from selected precincts in the same manner as the hand count of precinct-cast ballots. Ideally, the pilot study would be conducted as part of a relatively uncomplicated election such as the 2016 Presidential Preference Election in which there is a small number of races and ballot styles.

Why? The Current Early Ballot Audit is Insufficient.

The existing procedure for hand count of early (mailed) ballots differs significantly from that of precinct-cast ballots. For precinct-cast ballots, the audit is "end-to-end," meaning that the hand count tally for the audited races can be compared to figures that appear in the final canvass, or Statement of Votes Cast. In contrast, the hand count of early ballots, which make up more than 70% of the ballots, is done on batches of mixed-precinct ballots and produces tallies that do not appear in any official election results. The result is that the existing early ballot audit only confirms that ballot batches are correctly scanned, but all subsequent data processing, including accumulation of batch totals, sorting and reporting of results, is ignored and remains unaudited. This is a significant shortcoming. The pilot study will evaluate a procedure that would make the early ballot audit equivalent to the precinct-cast ballot audit.

How? Our New Tabulation Equipment Provides the Technology to Improve Our Election Audits.

The recently purchased ES&S central count tabulation system includes the capability to create digital images of each and every paper ballot. Once all the ballots are scanned, the database of ballot images can be sorted, by software, into precincts or voting areas. The ballot images associated with selected precincts can then be printed. These printed images can then serve as proxies for the actual paper ballots and can be hand counted in the same manner currently used for the precinct-cast ballots. In order to conduct the same type of audit with actual paper ballots, the ballots would have to be physically sorted by precinct, a labor-intensive job that election officials have been unwilling to do. The ballot images make it possible to avoid physical sorting.

Honorable Chair and Members
Pima County Board of Supervisors
April 17, 2015
Page 2

What? A Pilot Study to Evaluate the Use of Digital Images of Ballots in Election Auditing

The Commission recommends the implementation of a pilot study that will use digital images of ballots as input to the hand count of early ballots. For the study, this would be done in addition to the existing procedures specified in A.R.S. §16-602. The study will produce a report that will contain recommendations as to the efficacy of the approach. Our hope is that the use of ballot images can eventually replace the current early ballot batch method that requires interruption of the central count process to select random audit batches. It may even be possible that all of the auditing could be done with ballot images.

Cost? Minimal

The cost for the pilot study is only the cost of printing the ballot images for a few precincts. The paid hand counters will require some additional time for the study, but since they receive a flat daily rate of pay, there will be no additional cost to the County for their labor. We also recommend conducting the pilot study during a relatively simple election, such as the Presidential Preference Election, in which there is a small number of races and a small number of ballot styles. This will keep the auditing time to a minimum.

Better Audits and Less Handling of Paper Ballots

If the study is successful, the Commission will recommend a change in state law that would explicitly allow the use of ballot images in election hand counts *as an option* to the current methods specified in statute. Any county with the enabling technology could take advantage of the option to use digital images for auditing. We do not believe that there are any legal barriers to this pilot study. It is simply an enhancement of the existing audit process, and Pima County already goes beyond the legal requirements and enhances the audit by adding additional precincts to the hand count. Eventually, the use of ballot images for auditing will reduce or eliminate ballot handling and chain of custody concerns associated with the hand count audit.

Summary

The proposed use of ballot images for auditing has three potential benefits:

- The early ballot audit will be end-to-end, consistent with the audit of precinct-cast ballots.
- The selection of random early ballot batches, which occurs as early ballots are scanned, could eventually be eliminated.
- Conducting hand counts with printed images would eliminate additional handling of paper ballots currently required to support audits.

A pilot study is needed to validate the efficacy of the proposed auditing process, and identify any potential roadblocks. The EIC sincerely hopes that the Board will accept this recommendation.

Arizona dumps election vendor after repeated slowness

Arizona dumps election vendor after

Rob O'Dell and Yvonne Wingett Sanchez, The Republic | azcentral.com 9:35 p.m. MST July 1.



(Photo: MMichael Schennum / The Republic)

The secretary of state has dumped the vendor responsible for publishing Arizona's election results online after persistent problems on Election Day in 2012 and 2014.

The state's election website was slow, difficult to load and produced error messages during the 2012 primary and general elections. In 2014, former Secretary of State Ken Bennett and the election vendor SOE Software promised improvements, but the problems persisted with outages and errors that frustrated voters and candidates.

Matt Roberts, spokesman for the secretary of state, said the contract was not renewed in March, because of SOE Software's poor election-night performances, "communication issues," and the system's limited customization features.

"Specifically in those first 20 minutes (on election night), where it's very important that we get it right and display results in those minutes, where everyone wants to see them, and there are issues with it, that's a problem for us," Roberts said. "We were pretty disappointed with our performance in those elections."

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In a statement, Bo O'Dea, vice president of marketing for the company that owns SOE, wrote: "After five years of working with the State of Arizona, SOE's Election Night Reporting (ENR) contract will expire naturally. While ENR did experience slowdowns during the 2014 elections, since that time we addressed the core issue, invested heavily in architecture enhancements, hired an independent technology firm to test our changes and have successfully reported results for over 40 elections across the country."

Instead of hiring another vendor, Secretary of State Michele Reagan, the state's elections chief, is building an election-night reporting system in-house. Prior to its contract with SOE Software, the office ran election-night reporting internally.

The state hired Tampa-based SOE Software following a competitive process in 2010 and paid the company \$945,000, according to figures provided by the secretary of state.

Bennett, who gave the green light to hire the vendor, was criticized for the system's poor performance during the August 2012 primary.

Bennett was out of town during Arizona's 2012 primary to attend the Republican National Convention in Tampa. There he also met with SOE officials to discuss the problems and try to ensure they would be fixed before the general election. But problems occurred in the 2012 general election as well.

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E-mails obtained by *The Arizona Republic* through a public records request show that two years later, before the 2014 August primary election, state officials anticipated more problems with SOE's system.

The day before the primary, Assistant State Election Director Kris Kingsmore wrote to SOE representatives that, "we are extremely concerned that we are heading into a repeat of 2012. As we all remember that was a disaster for us."

Kingsmore wrote she was concerned about page load times. "I cannot stress it enough — this MUST be fixed headed into election night."

It wasn't.

After the polls closed, SOE's election system posted incorrect data for Maricopa County. In addition, Cochise County election results were declared unreliable and pulled from the website temporarily, an issue election officials blamed on Cochise County.

Yavapai County's election results weren't posted until nearly 6 a.m. the following day, despite e-mails showing SOE and the secretary of state had tested loading Yavapai's results prior to the primary election.

Kingsmore again wrote to SOE saying that a company statement of responsibility for errors in the Maricopa County data didn't go far enough, especially because state officials had warned the company of problems on June 27.

"Since SOE gave inaccurate information during the initial configuration, then introduced the error during the reconfiguration, and then failed to effectively communicate the requirement for testing before the new file was uploaded, we feel SOE should take full responsibility," Kingsmore said.

In the 2014 general election, the site would not load for more than 20 minutes after voting results began rolling in at 8 p.m., and the site was completely unresponsive for an hour later that night.

E-mails show a frantic back-and-forth between SOE and state officials, and Arizona officials pressing SOE to take responsibility for the breakdowns. SOE sent a statement asserting the problems were fixed by 8 p.m., but state officials disputed it.

Kingsmore responded: "This was NOT resolved at 8 p.m. We are adamant about 8:30 p.m. We can share media tweets and reports with you if that helps us all agree on the time. I'm not sure why you want to split hairs on that. The same problem is occurring again, right now at 10:25 p.m."

SOE later sent a statement saying that a network file-sharing service had failed and vowed to make sure they would never happen again.

DJ Quinlan, former head of Arizona Democratic Party, said in 2012 he experienced a "complete loss of access to the site."

"The whole site seemed like it just couldn't handle the traffic," Quinlan said.

He said he has concerns about the Secretary of State's Office handling election reporting in-house, noting that the office needs technical expertise and a commitment to openness in building the system.

On Tuesday, Roberts said one of Reagan's priorities is to improve the reporting system. "Nobody is more sensitive to our efforts to display election results in a timely effort than we are," he said.

The office has hired and dedicated two employees to develop and oversee the system; another hire is expected soon and additional employees will help develop the system. The office has budgeted \$550,000 to develop and maintain the system, Roberts said.

He said the system will "meet the expectations of ourselves and also the elections community and voters."

"Our disappointment that we experienced in '12 and '14 was significant," he said. "It's not good enough for us to experience some of those problems time after time and not make a change."