TITLE 1

ELECTIONS

Editor's note: Articles 1 to 13 were numbered as articles 1, 3, 4, 9 to 19, and 21 of chapter 49, C.R.S. 1963. The substantive provisions of these articles were repealed and reenacted in 1980, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to these articles prior to 1980, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. numbers prior to 1980 are shown in editor's notes following those sections that were relocated. For a detailed comparison of these articles for 1980, see the comparative tables located in the back of the index.

Cross references: For school elections, see articles 30, 31, and 42 of title 22; for elections for removal of county seats, see article 8 of title 30; for municipal elections, see article 10 of title 31; for special district elections, see part 8 of article 1 of title 32; for exemption of certain statutory proceedings from the rules of civil procedure, see C.R.C.P. 81; for recall from office, see article XXI of the state constitution; for recall of state and county officers, see part 1 of article 12 of this title; for recall of municipal officers, see part 5 of article 4 of title 31; for recall of directors of special districts, see §§ 32-1-906, 32-1-907; for provisions relating to initiative and referendum, see article 40 of this title; for campaign finance, see article 45 of this title.

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GENERAL, PRIMARY, RECALL, AND CONGRESSIONAL VACANCY ELECTIONS

ARTICLE 1

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PART 1

DEFINITIONS AND GENERAL PROVISIONS

1-1-101. Short title.

Articles 1 to 13 of this title shall be known and may be cited as the "Uniform Election Code of 1992"; within these articles, "this code" means the "Uniform Election Code of 1992".

Source: L. 92: Entire article R&RE, p. 624, § 1, effective January 1, 1993.

Editor's note: This section is similar to former § 1-1-101 as it existed prior to 1992.

1-1-102. Applicability.

(1) This code applies to all general, primary, congressional vacancy, school district, special district, ballot issue, and other authorized elections unless otherwise provided by this code. This code applies to any municipal election conducted as part of a coordinated election except to the extent that this code conflicts with a specific charter provision. Any municipality may provide by ordinance or resolution that it will utilize the requirements and procedures of this code in lieu of

the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., with respect to any election.

(2) For elections that must be coordinated pursuant to section 20 (3)(b) of article X of the Colorado constitution where the enabling legislation does not require that the electors be registered electors, the political subdivision may conduct its elections pursuant to the enabling legislation but it must assure that the notice required by part 9 of article 7 of this title is provided to the election official responsible for publishing the ballot issue notice.

Source: L. 92: Entire article R&RE, p. 624, § 1, effective January 1, 1993. **L. 93:** Entire section amended, p. 1393, § 1, effective July 1. **L. 94:** (2) amended, p. 1149, § 1, effective July 1.

Editor's note: This section is similar to former § 1-1-102 as it existed prior to 1992.

Cross references: For the definitions of "general election", "primary election", and "congressional vacancy election", see §§ 1-1-104 (17), 1-1-104 (32), and 1-1-104 (5), respectively.

1-1-103. Election code liberally construed.

(1) This code shall be liberally construed so that all eligible electors may be permitted to vote and those who are not eligible electors may be kept from voting in order to prevent fraud and corruption in elections.

(2) It is also the intent of the general assembly that non-English-speaking citizens, like all other citizens, should be encouraged to vote. Therefore, appropriate efforts should be made to minimize obstacles to registration by citizens who lack sufficient skill in English to register without assistance.

(3) Substantial compliance with the provisions or intent of this code shall be all that is required for the proper conduct of an election to which this code applies.

Source: L. 92: Entire article R&RE, p. 624, § 1, effective January 1, 1993. **L. 96:** (1) amended and (3) added, p. 1732, § 1, effective July 1.

Editor's note: This section is similar to former § 1-1-103 as it existed prior to 1992.

ANNOTATION

Substantial compliance standard does not apply to the minimum signature requirements for candidate petitions. The language establishing signature requirements is clear and unequivocal and requires strict compliance. Griswold v. Ferrigno Warren, 2020 CO 34, 462 P.3d 1081.

1-1-104. Definitions.

As used in this code, unless the context otherwise requires:

(1) "Abstract of votes cast" means a certified record of the results in each election for candidates for any office, ballot issue, or ballot question that the county clerk and recorder certified for the ballot.

(1.1) "Address of record" means the elector's place of residence or the elector's deliverable mailing address, if different from the elector's place of residence.

(1.2) "Affiliation" means an elector's decision to affiliate with either a political party or a political organization, as defined in subsections (24) and (25) of this section.

(1.3) "Assembly" means a meeting of delegates of a political party, organized in accordance with the rules and regulations of the political party, held for the purpose of designating candidates for nominations.

(1.5) "Authorizing legislation" means the provisions of the state constitution or statutes or of a local charter authorizing the existence and powers of a political subdivision and providing for the call and conduct of the political subdivision's election.

(1.7) "Ballot" means the list of all candidates, ballot issues, and ballot questions upon which an eligible elector is entitled to vote at an election.

(2) "Ballot box" means the locked and sealed container in which ballots are deposited by eligible electors. The term includes the container in which ballots are transferred from a polling location to the office of the designated election official and the transfer case in which electronic ballot cards and paper tapes and the "prom" or any other electronic tabulation device are sealed by election judges for transfer to the central counting center.

(2.1) "Ballot card" means the card, tape, or other vehicle on which an elector's votes are recorded in an electronic or electromechanical voting system.

(2.3) "Ballot issue" means a state or local government matter arising under section 20 of article X of the state constitution, as defined in sections 1-41-102 (4) and 1-41-103 (4), respectively.

(2.5) "Ballot issue notice" means the notice which is required by section 20 (3)(b) of article X of the state constitution and comprises the material between the notice title and the conclusion of the summary of comments.

(2.7) "Ballot question" means a state or local government matter involving a citizen petition or referred measure, other than a ballot issue.

(2.8) "Confirmation card" means a communication mailed from a county clerk and recorder to an elector pursuant to section 1-2-302.5 (2)(b)(III), 1-2-509 (3)(b)(III), or 1-2-605, which card must:

(a) Be mailed to the elector's address of record;

(b) Be sent by forwardable mail;

(c) Comply with all relevant requirements of the federal "National Voter Registration Act of 1993", 52 U.S.C. sec. 20501 et seq., as amended; and

(d) Include a postage-prepaid, preaddressed form by which the elector may verify or correct his or her address information.

(3) (Deleted by amendment, L. 94, p. 1750, § 1, effective January 1, 1995.)

(4) (Deleted by amendment, L. 93, p. 1394, § 2, effective July 1, 1993.)

(5) "Congressional vacancy election" means an election held at a time other than the general election for the purpose of filling a vacancy in an unexpired term of a representative in congress.

(6) "Convention" means a meeting of delegates of a political party, organized in accordance with the rules and regulations of the political party, held for the purpose of selecting delegates to other political conventions, including national conventions, making nominations for presidential electors, or nominating candidates to fill vacancies in unexpired terms of representatives in congress or held for other political functions not otherwise covered in this code.

(6.5) "Coordinated election" means an election where more than one political subdivision with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the county clerk and recorder is the coordinated election official for the political subdivisions.

(7) "County" includes a city and county.

(7.3) "County commissioner vacancy election" means an election described in section 1-12-206 (8)(a) that is conducted as part of a November odd-year coordinated election and that is held

for the purpose of filling a vacancy in an unexpired term of the office of county commissioner who was affiliated with a major political party in a county with a population of at least fifty thousand active voters as of the date of the last general election.

(7.5) "Deliverable mailing address" means the elector's mailing address if different from the elector's address of record as specified in accordance with section 1-2-204 (2)(f).

(8) "Designated election official" means the member of a governing board, secretary of the board, county clerk and recorder, or other person designated by the governing body as the person who is responsible for the running of an election.

(9) "District captain" or "district co-captain" means any registered elector who is a resident of the district, is affiliated with a political party, and is designated or elected pursuant to political party rules of the county.

(9.5) "District office of state concern" means those elective offices, involving congressional districts or unique political subdivisions with territory in more than one county and with their own enabling legislation, as identified by rules of the secretary of state based upon the method for designating candidates for office and responsibility for identification and qualification of candidates.

(9.6) "Driver's license" means any license, temporary instruction permit, or temporary license issued under the laws of this state pertaining to the licensing of persons to operate motor vehicles and any identification card issued under part 4 of article 2 of title 42, C.R.S.

(9.7) "Drop box" means a secure receptacle established to receive mail ballots twenty-four hours a day. The term does not include a mail ballot box maintained at a voter service and polling center pursuant to section 1-5-102.9 (3)(l) or a drop-off location.

(9.8) "Drop-off location" means a location established for the receipt of mail ballots under the supervision of a municipal clerk, election judges, a county clerk and recorder or a member of the county clerk and recorder's staff, a designated election official, or another person designated by the designated election official as required by this code. The term does not include a mail ballot box maintained at a voter service and polling center pursuant to section 1-5-102.9 (3)(l) or a drop box.

(10) "Election official" means any county clerk and recorder, election judge, member of a canvassing board, member of a board of county commissioners, member or secretary of a board of directors authorized to conduct public elections, representative of a governing body, or other person contracting for or engaged in the performance of election duties as required by this code.

(11) "Election records" includes accounting forms, certificates of registration, pollbooks, certificates of election, signature cards, all affidavits, voter applications, other voter lists and records, mail ballot return envelopes, voted ballots, unused ballots, spoiled ballots, replacement ballots, key card access system logs, and video security surveillance recordings.

(12) "Elector" means a person who is legally qualified to vote in this state. The related terms "eligible elector", "registered elector", and "taxpaying elector" are separately defined in this section.

(13) "Elector registration information changes" means changes in the name, address, or political affiliation of a registered elector which are allowed by the provisions of this code.

(13.5) "Electromechanical voting system" means a system in which an elector votes using a device for marking a ballot card using ink or another visible substance and the votes are counted with electronic vote-tabulating equipment. The term includes a system in which votes are recorded electronically within the equipment on paper tape and are recorded simultaneously on an electronic device that permits tabulation at a counting center. As used in part 6 of article 5 of this title, "electromechanical voting system" shall include a paper-based voting system.

(14) "Electronic vote-tabulating equipment" or "electronic vote-counting equipment" means any apparatus that examines and records votes automatically and tabulates the result, including but not limited to optical scanning equipment. The term includes any apparatus that counts votes electronically and tabulates the results simultaneously on a paper tape within the apparatus, that uses an electronic device to store the tabulation results, and that has the capability to transmit the votes into a central processing unit for purposes of a printout and an official count.

(14.5) "Electronic voting device" means a device by which votes are recorded electronically, including a touchscreen system.

(15) Repealed.

(15.5) "Electronic voting system" means a system in which an elector votes using an electronic voting device.

(16) "Eligible elector" means a person who meets the specific requirements for voting at a specific election or for a specific candidate, ballot question, or ballot issue. If no specific provisions are given, an eligible elector shall be a registered elector, as defined in subsection (35) of this section.

(16.5) "Federally accredited laboratory" means a laboratory certified under section 231 of the federal "Help America Vote Act of 2002", 52 U.S.C. 20901 et seq., or any successor section.

(17) "General election" means the election held on the Tuesday succeeding the first Monday of November in each even-numbered year.

(18) "Governing body" means a board of county commissioners, a city council, a board of trustees, a board of directors, or any other entity which is responsible for the calling and conducting of an election.

(18.5) "Group residential facility" means a nursing home, a nursing care facility licensed pursuant to part 1 of article 3 of title 25, a home for persons with intellectual and developmental

disabilities as defined in section 25.5-10-202, an assisted living residence licensed pursuant to section 25-27-105, or a residential treatment facility for persons with behavioral or mental health disorders.

(19) "Gubernatorial" means and refers to voting in general elections for the office of governor.

(19.5) (a) "Identification" means:

(I) A valid Colorado driver's license, except a license issued under part 5 of article 2 of title 42, C.R.S.;

(II) A valid identification card issued by the department of revenue in accordance with the requirements of part 3 of article 2 of title 42, C.R.S.;

(III) A valid United States passport or passport card;

(IV) A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of this state, or by any county, municipality, board, authority, or other political subdivision of this state;

(V) A valid pilot's license issued by the federal aviation administration or other authorized agency of the United States;

(VI) A valid United States military identification card with a photograph of the eligible elector;

(VII) (A) A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector;

(B) For purposes of this subsection (19.5)(a)(VII), a government document includes a division of youth services identification card issued by the department of human services to the elector or written correspondence from the county sheriff, or the sheriff's designee, to the county clerk indicating that the elector is confined in a county jail or detention facility.

(VIII) A valid medicare or medicaid card issued by the United States health care financing administration;

(IX) A certified copy of a birth certificate for the elector issued in the United States;

(X) Certified documentation of naturalization;

(XI) A valid student identification card with a photograph of the eligible elector issued by an institution of higher education in Colorado, as defined in section 23-3.1-102 (5), C.R.S.;

(XII) A valid veteran identification card issued by the United States department of veterans affairs veterans health administration with a photograph of the eligible elector;

(XIII) A valid identification card, which need not contain a photograph, that is:

(A) Issued by a federally recognized tribal government, the bureau of Indian affairs, or the Indian health service; or

(B) Issued by any other federal agency issuing identification certifying tribal membership and that includes an address in the state; or

(XIV) Any form of identification specified in subsections (19.5)(a)(I) to (19.5)(a)(XIII) of this section that is in a digital format.

(b) Any form of identification indicated in paragraph (a) of this subsection (19.5) that shows the address of the eligible elector shall be considered identification only if the address is in the state of Colorado.

(c) Verification that a voter is a resident of a group residential facility, as defined in subsection (18.5) of this section, shall be considered sufficient identification for the purposes of section 1-7-110 (1).

(d) Verification that a voter is a person committed to the department of human services and confined and eligible to register and vote shall be considered sufficient identification of such person for the purposes of section 1-2-210.5.

(19.7) "Instant runoff voting" means a ranked voting method used to select a single winner in a race, as set forth in section 1-7-1003 (3).

(20) "Joint candidates" means the two candidates for the office of governor and the office of lieutenant governor for whom one vote cast at any general election is applicable to both offices.

(21) (Deleted by amendment, L. 93, p. 1394, § 2, effective July 1, 1993.)

(21.5) "Key card access system" means a system that controls physical entry into a room or location by use of a radio frequency identification card or similar door access system and produces a log that includes the name, date, and time that a person enters the room or area.

(22) "Major political party" means any political party that at the last preceding gubernatorial election was represented on the official ballot either by political party candidates or by individual nominees and whose candidate at the last preceding gubernatorial election received at least ten percent of the total gubernatorial votes cast.

(22.5) "Major political party affiliation" means an elector's decision to affiliate with a major political party, as defined in subsection (22) of this section.

(22.6) "Major political party vacancy election" means an election that is conducted as part of an odd-year coordinated election to fill a vacancy in the general assembly in accordance with section 1-12-203 (1.5).

(22.7) "Manual count" means a count conducted by hand or by scanning a bar code.

(23) "Minor political party" means a political party other than a major political party that satisfies one of the conditions set forth in section 1-4-1303 (1) or has submitted a sufficient petition in accordance with section 1-4-1302.

(23.3) "Nonpartisan election" means an election that is not a partisan election.

(23.4) "Overvote" means the selection by an elector of more names than there are persons to be elected to an office or the designation of more than one answer to a ballot question or ballot issue. "Overvote" does not include the ranking of multiple candidates in an election using instant runoff voting in accordance with part 10 of article 7 of this title 1.

(23.5) "Paper-based voting system" means an electromechanical voting system in which the elector's vote is recorded solely on a paper ballot.

(23.6) "Partisan election" means an election in which the names of the candidates are printed on the ballot along with their affiliation. The existence of a partisan election for the state or for a political subdivision as a part of a coordinated election does not cause an otherwise nonpartisan election of another political subdivision to become a partisan election.

(24) "Political organization" means any group of registered electors who, by petition for nomination of an unaffiliated candidate as provided in section 1-4-802, places upon the official general election ballot nominees for public office.

(25) "Political party" means either a major political party or a minor political party.

(26) Repealed.

(27) "Pollbook" means the list, maintained in the statewide voter registration system created in section 1-2-301, of eligible electors who are permitted to vote at a polling location or by mail ballot in an election conducted under this code.

(27.5) "Polling location" means a polling place or a voter service and polling center, as applicable.

(28) Repealed.

(29) "Population" means population as determined by the latest federal census.

(29.5) "Post office box" means a compartment on the premises of a central mailing location, whether the location is administered by the United States postal service or a commercial mail service entity, in which a patron's incoming mail is held until collected by the patron.

(30) "Precinct" means an area with established boundaries within a political subdivision used to establish election districts.

(31) "Precinct caucus" means a meeting of registered electors of a precinct who are eligible to participate in accordance with the provisions of section 1-3-101, such meeting being organized in accordance with the rules and regulations of the political party.

(31.5) "Presidential election" means an election held on the first Tuesday after the first Monday in November of an even-numbered year in which the names of candidates for president of the United States appear on the ballot.

(32) "Primary election" means the election held on the last Tuesday in June of each even-numbered year and the presidential primary election held in accordance with part 12 of article 4 of this title 1.

(33) "Property owners list" means the list furnished by the county assessor in accordance with section 1-5-304 showing each property owner within the subdivision, as shown on a deed or contract of record.

(33.5) "Public assistance" includes, but is not necessarily limited to, assistance provided under the following programs:

(a) The food stamp program, as provided in part 3 of article 2 of title 26, C.R.S.;

(b) Programs established pursuant to the "Colorado Medical Assistance Act", articles 4, 5, and 6 of title 25.5, C.R.S.;

(c) The special supplemental food program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786;

(d) Assistance under the Colorado works program, as described in part 7 of article 2 of title 26, C.R.S.

(34) "Publication" means printing one time, in one newspaper of general circulation in the political subdivision if there is such a newspaper, and, if not, then in a newspaper in the county in which the political subdivision is located. For a political subdivision with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the political subdivision, then one publication is required in a newspaper in each county in which the political subdivision is located and in which the political subdivision also has fifty or more eligible electors.

(34.2) "Purchase" means to enter into a contract for the purchase, lease, rental, or other acquisition of voting equipment.

(34.4) "Ranked voting method" means a method of casting and tabulating votes that allows electors to rank the candidates for an office in order of preference and uses these preferences to determine the winner of the election. "Ranked voting method" includes instant runoff voting and choice voting or proportional voting as described in section 1-7-1003.

(34.5) "Referred measure" includes any ballot question or ballot issue submitted by the general assembly or the governing body of any political subdivision to the eligible electors of the state or political subdivision pursuant to article 40 or 41 of this title.

(35) "Registered elector" means an elector, as defined in subsection (12) of this section, who has complied with the registration provisions of this code and who resides within or is eligible to vote in the jurisdiction of the political subdivision calling the election. If any provision of this code requires the signing of any document by a registered elector, the person making the signature shall be deemed to be a registered elector if the person's name and address at the time of signing the document matches the name and address for the person on the registration document at the county clerk and recorder's office, and as it appears on the master elector list on file with the secretary of state.

(36) Repealed.

(37) "Registration list" means the computer list of electors currently registered to vote as furnished and certified by the county clerk and recorder.

(38) "Registration record" means the approved and completed form on which an elector has registered to vote, which includes the original signature of the registrant. "Registration record" includes a standard-size approved elector registration record to which a nonstandard completed form has been transferred by copy or manual entry.

(39) "Regular biennial school election" means the election held on the first Tuesday in November of each odd-numbered year.

(40) "Regular drainage ditch election" means the election held on the first Tuesday after the first Monday in January of each alternate year.

(41) "Regular regional transportation district election" means the election held concurrently with the state general election in every even-numbered year during which the directors are elected.

(42) "Regular special district election" means the election on the Tuesday succeeding the first Monday of May in every odd-numbered year, held for the purpose of electing members to the board of special districts and for submission of ballot issues, if any.

(43) "Residence" means the principal or primary home or place of abode of a person, as set forth in section 1-2-102.

(44) (Deleted by amendment, L. 96, p. 1732, § 2, effective July 1, 1996.)

(45) "School district" means a school district organized and existing pursuant to law but does not include a local college district.

(45.5) "Self-affirmation" means a sworn statement made in writing and signed by an individual, as though under oath. Any person falsely making a self-affirmation violates section 1-13-104.

(46) "Special election" means any election called by a governing board for submission of ballot issues and other matters, as authorized by their enabling legislation. Any governing body may petition a district court judge who has jurisdiction over the political subdivision for permission to hold a special election on a day other than those specified in this subsection (46). The district court judge may grant permission only upon a finding that an election on the days specified would be impossible or impracticable or upon a finding that an unforeseeable emergency would require an election on a day other than those specified.

(46.3) "Special legislative election" means an election called by the general assembly pursuant to part 3 of article 11 of this title.

(46.5) "Statewide abstract of votes cast" means the record of the results in each election for candidates, ballot issues, and ballot questions that the secretary of state certified for the ballot.

(46.7) "Statewide voter registration system" means the centralized statewide voter registration system, commonly referred to as "SCORE", created in section 1-2-301.

(47) "Supervisor judge" means the election judge appointed by the designated election official to be in charge of the election process at a polling location.

(48) "Taxable property" means real or personal property subject to general ad valorem taxes. For all elections and petitions that require ownership of real property or land, ownership of a mobile home or manufactured home, as defined in section 5-1-301 (29), 38-12-201.5 (5), or 42-1-102 (48.8), is sufficient to qualify as ownership of real property or land for the purpose of voting rights and petitions.

(49) "Taxpaying elector" shall have the same meaning as provided in section 32-1-103 (23), C.R.S.

(49.3) (a) "Term of imprisonment" or "full term of imprisonment" means the period during which an individual is serving a sentence of detention or confinement in any correctional facility, jail, or other location for a felony conviction.

(b) This subsection (49.3) applies to this code for the purpose of applying section 10 of article VII of the state constitution.

(c) "Term of imprisonment" or "full term of imprisonment" does not include the period during which an individual is on parole.

(49.5) "Unaffiliated" means that a person is registered but not affiliated with a political party in accordance with the provisions of section 1-2-204 (2)(j).

(49.7) "Undervote" means the failure of an elector to vote on a ballot question or ballot issue, the failure of an elector to vote for any candidate for an office, or the designation by an elector of fewer votes than there are offices to be filled; except that it is not an undervote if there are fewer candidates than offices to be filled and the elector designates as many votes as there are candidates.

(49.8) Repealed.

(49.9) "Video security surveillance recording" means video monitoring by a device that continuously records a designated location or a system using motion detection that triggers continuous recording when motion is detected.

(50) "Vote recorder" or "voting device" means any apparatus that the elector uses to record votes by marking a ballot card and that subsequently counts the votes by electronic tabulating equipment or records the votes electronically on a paper tape within the apparatus and simultaneously on an electronic tabulation device.

(50.2) "Voter registration agency" means an office designated in section 1-2-504 to perform voter registration activities.

(50.3) "Voter registration drive" means the distribution and collection of voter registration applications by two or more persons for delivery to a county clerk and recorder.

(50.4) "Voter registration drive organizer" means a person, as defined in section 2-4-401 (8), C.R.S., that organizes a voter registration drive in the state.

(50.5) "Voter service and polling center" means a location established for holding elections, other than a polling place, that offers the services described in section 1-5-102.9.

(50.6) (a) "Voter-verified paper record" means an auditable paper record that:

(I) Is available for the elector to inspect and verify before the vote is cast;

(II) Is produced contemporaneously with or employed by any voting system;

(III) Lists the designation of each office, the number or letter of each ballot issue or ballot question, and the elector's choice for each office, ballot issue, or ballot question and indicates any office, ballot issue, or ballot question for which the elector has not made a selection;

(IV) Is suitable for a manual audit or recount; and

(V) Is capable of being maintained as an election record in accordance with the requirements of section 1-7-802.

(b) Any paper ballot that lists the title, along with any number, as applicable, of each candidate race, ballot issue, or ballot question, on which the elector has marked his or her

choices in such races, issues, or questions shall constitute a voter-verified paper record for purposes of this subsection (50.6).

(50.7) "Voting equipment" means electronic or electromechanical voting systems, electronic voting devices, and electronic vote-tabulating equipment, as well as materials, parts, or other equipment necessary for the operation and maintenance of such systems, devices, and equipment.

(50.8) "Voting system" means a process of casting, recording, and tabulating votes using electromechanical or electronic devices or ballot cards and includes, but is not limited to, the procedures for casting and processing votes and the operating manuals, hardware, firmware, printouts, and software necessary to operate the voting system.

(50.9) "Voting system provider" means an individual engaged in private enterprise or a business entity engaged in selling, leasing, marketing, designing, building, or modifying voting systems to the state, a political subdivision of the state, or another entity authorized to hold an election under this code.

(51) "Watcher" means an eligible elector other than a candidate on the ballot who has been selected by a political party chairperson on behalf of the political party; by a party candidate at a primary election, by an unaffiliated candidate at a general, congressional vacancy, or nonpartisan election; or by a person designated by either the opponents or the proponents in the case of a ballot issue or ballot question. "Watcher" also means an eligible elector selected by a candidate on the ballot for the office of United States senator, representative in congress, any state office or district office of state concern, or any county office who is subject to a recount. If selected by a political party chairperson or a party candidate, the watcher must be affiliated with that political party or unaffiliated as shown in the statewide voter registration system. If selected by an unaffiliated candidate, the watcher must be unaffiliated as shown in the statewide voter registration system. A person shall not be selected as a watcher if the person has been convicted of any election offense specified in article 13 of this title 1 or any similar election offense in another state or has been convicted of committing or conspiracy to commit sedition, insurrection, treason, conspiracy to overthrow government by use of physical force or violence, or any similar federal offense.

Source: L. 92: Entire article R&RE, p. 625, § 1, effective January 1, 1993. **L. 93:** (4), (11), (16), (21), (28), (39), (46), (49), and (51) amended and (2.3), (2.7), and (6.5) added, p. 1394, § 2, effective July 1; (11) amended, p. 58, § 1, effective July 1. **L. 94:** (48) amended, p. 704, § 3, effective April 19; (2.3), (2.7), (8), (34), and (35) amended and (2.5), (9.5), and (34.5) added, p. 1149, § 2, effective July 1; (3), (37), and (38) amended and (9.6), (33.5), and (50.5) added, p. 1750, § 1, effective January 1, 1995; (48) amended, p. 2541, § 6, effective January 1, 1995. **L. 95:** (23.3), (23.6), and (49.5) added and (24), (33), (37), and (51) amended, pp. 819, 860, 863,

§§1, 113, 125, effective July 1. **L. 96:** (12), (44), and (49) amended and (1.5) and (45.5) added, p. 1732, § 2, effective July 1. **L. 97:** (33.5)(d) amended, p. 1239, § 33, effective July 1. **L. 98:** (22), (23), and (25) amended, p. 255, § 2, effective April 13. **L. 99:** (37) amended, p. 756, § 1, effective May 20; (46.3) added, p. 1389, § 5, effective June 4; (1) amended and (1.3), (1.7), and (46.5) added, p. 477, § 1, effective July 1; (1.2) amended and (1.3), (22.5), and (23.6) added, p. 157, § 1, effective August 4; (1.1) amended and (1.3) and (7.5) added, p. 278, § 1, effective August 4. **L. 2000:** (48) amended, p. 1870, § 100, effective August 2. **L. 2003:** (32) amended, p. 495, § 1, effective March 5; (1.3) and (23) amended, p. 1308, § 1, effective April 22; (19.5) added, p. 1276, § 1, effective April 22; (19.5) added, p. 1437, § 1, effective April 29; (19.5)(a)(II), (19.5)(a)(V), and (19.5)(a)(VI) amended and (19.5)(a)(VII) added, p. 2064, § 1, effective May 22. **L. 2004:** (19.5)(a)(I) and (19.5)(a)(V) amended, p. 426, § 1, effective April 13; (19.5)(a)(V) amended and (19.5)(a)(VIII), (19.5)(a)(IX), and (19.5)(a)(X) added, p. 1051, § 1, effective May 21; (49.8) added, p. 1104, § 1, effective May 27; (2.1), (13.5), (14.5), (15.5), (23.4), (34.2), (49.7), (50.7), (50.8), and (50.9) added and (14) and (27) amended, p. 1342, § 2, effective May 28; (50) amended, p. 1343, § 3, effective January 1, 2006; (15)(b) added by revision, pp. 1361, 1213, §§ 30, 31, 108. **L. 2005:** (22.7), (50.2), (50.4), and (50.6) added and (50.5) amended, p. 1392, § 1, effective June 6; (22.7), (50.2), (50.4), and (50.6) added and (50.5) amended, p. 1427, § 1, effective June 6. **L. 2006:** (33.5)(b) amended, p. 1997, § 28, effective July 1. **L. 2007:** (11) amended, p. 1775, § 1, effective June 1; (19.5)(a)(XI) added and (50.6)(a)(III) amended, p. 1967, §§ 1, 2, effective August 3; (31.5) added, p. 1988, § 1, effective August 3. **L. 2008:** (34.4) added, p. 1249, § 1, effective August 5. **L. 2009:** (13.5) amended and (16.5) and (23.5) added, (HB 09-1335), ch. 260, p. 1189, § 1, effective May 15; (18.5) and (19.5)(c) added, (HB 09-1336), ch. 261, p. 1197, §§ 1, 2, effective August 5. **L. 2011:** (32) amended, (SB 11-189), ch. 243, p. 1062, § 1, effective May 27. **L. 2012:** (19.5)(a)(XII) added, (SB 12-062), ch. 97, p. 326, § 1, effective April 12; (1.1), (19.5)(a)(X), and (19.5)(a)(XI) amended and (19.5)(a)(XIII) added, (HB 12-1292), ch. 181, p. 676, § 1, effective May 17. **L. 2013:** (19.5)(d) added, (HB 13-1038), ch. 28, p. 67, § 1, effective March 15; (2), (27), (28), (36), (47), (50.4), and (50.5) amended, (2.8), (9.8), (27.5), and (50.3) added, and (49.8) repealed, (HB 13-1303), ch. 185, p. 682, § 3, effective May 10; (18.5) amended, (HB 13-1314), ch. 323, p. 1800, § 15, effective March 1, 2014. **L. 2014:** (11) amended and (28) repealed, (HB 14-1164), ch. 2, pp. 71, 77, §§ 33, 51, effective February 18; (29.5) added, (SB 14-161), ch. 160, p. 555, § 1, effective May 9. **L. 2016:** IP(2.8) amended, (HB 16-1093), ch.126, p. 358, § 1, effective April 21; (2.8)(c), (16.5), (19.5)(a)(I), and (51) amended, (46.7) added, and (36) repealed, (SB 16-142), ch. 173, p. 565, § 1, effective May 18; (2.8)(c) amended, (SB 16-189), ch. 210, p. 753, § 1, effective June 6. **L. 2017:** (18.5) amended, (SB 17-242), ch. 263, p. 1262, § 28, effective May 25. **L. 2018:** (2.8)(a) amended, (SB 18-233), ch. 262, p. 1617, § 41, effective May 29; (42) amended, (HB18-1039), ch. 29, p. 330, § 1, effective July 1, 2022. **L. 2019:** (49.3) added, (HB 19-1266), ch. 283, p. 2643, § 2, effective July 1; (9.7) added and (9.8) amended, (HB 19-1278), ch. 326, p. 3005, § 2, effective August 2. **L. 2020:** (48) amended, (HB 20-1196), ch. 195, p. 926, § 16, effective June 30. **L. 2021:** (32) and (51) amended, (SB 21-250), ch. 282, p. 1630, § 1,

effective June 21; (19.7) added and (23.4) amended, (HB 21-1071), ch. 367, p. 2415, § 1, effective July 1, 2022. **L. 2022:** (11) amended and (21.5) and (49.9) added, (SB 22-153), ch. 322, p. 2277, § 3, effective June 2; (48) amended, (SB 22-212), ch. 421, p. 2963, § 1, effective August 10. **L. 2023:** (19.5)(a)(XII) and (19.5)(a)(XIII) amended and (19.5)(a)(XIV) added, (SB 23-276), ch. 399, p. 2371, § 1, effective June 6. **L. 2025:** (7.3) added, (HB 25-1319), ch. 272, p. 1404, § 1, effective May 28; (19.5)(a)(XIII) amended, (SB 25-001), ch. 178, p. 744, § 1, effective August 6; (22.6) added, (HB 25-1315), ch. 180, p. 769, § 1, effective August 6; (51) amended, (HB 25-1155), ch. 35, p. 177, § 1, effective August 6. **L. 2026:** (19.5)(a)(III), (19.5)(a)(VII), (49.9), and (51) amended and (26) repealed, (HB 26-1113), ch. 267, p. 1482, § 1, effective June 1.

Editor's note: (1) This section is similar to former § 1-1-104 as it existed prior to 1992.

(2) Amendments to subsection (11) by House Bill 93-1111 and House Bill 93-1255 were harmonized.

(3) Amendments to subsection (48) by House Bill 94-92 and House Bill 94-1 were harmonized.

(4) Subsection (9.6) was numbered as (9.5) in House Bill 94-1294 but was renumbered on revision for ease of location.

(5) Subsection (1.1) was numbered as (1) in House Bill 99-1082 but was renumbered on revision for ease of location; subsection (1.2) was numbered as (1) in House Bill 99-1152 but was renumbered on revision for ease of location; and subsection (46.3) was numbered as (46.5) in House Bill 99-1097 but was renumbered on revision for ease of location.

(6) Amendments to subsection (19.5) by House Bill 03-1241 and Senate Bill 03-102 were harmonized.

(7) Subsection (15)(b) provided for the repeal of subsection (15), effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

Cross references: (1) For the legislative declaration in HB 04-1227, see section 1 of chapter 334, Session Laws of Colorado 2004. For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1266, see section 1 of chapter 283, Session Laws of Colorado 2019.

(2) For the short title ("Voter Access and Modernized Elections Act") and the legislative declaration in HB 13-1303, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

(4) For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

ANNOTATION

I. General Consideration.

II. Political Organization and Political Party.

III. Taxpaying Elector.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Ballot Measures: The Scope of Authority in Statutory Counties", see 52 Colo. Law 22 (May 2023).

II. POLITICAL ORGANIZATION AND POLITICAL PARTY.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Distinction made between "political party" and "political organization". In common use the phrase "political party" is synonymous with "political organization", but the general assembly by this section has made a marked distinction between them. Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

"Political organization" defined. An association of qualified electors who, by petition, place upon an official ballot individual nominees for public office constitute a "political organization". Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

As a condition precedent for such a "political organization" to become a "political party" within the statutory definition, it shall participate in an election, and, in addition thereto, cast for its candidate for governor at least ten percent of the total vote cast at such election. When these things occur, the "political organization" becomes a "political party". Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

If a person is the candidate solely of one "political party" or a single "political organization", the votes which he receives at a given election are conclusively presumed to have been cast by the particular party or organization whose candidate he is. Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

But if a person is the candidate of two or more "political parties" or "political organizations", no such presumption can exist. Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

Thus, where distinct political organizations, under different names, present the same individual as their candidate for governor, the votes cast by all

these several organizations for the same candidate are not to be considered as cast by any one "party", as such is not conditioned upon the number of votes which the candidate received, but upon the number an organization itself cast. Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

For a political organization is a distinct entity which can neither coalesce with another, nor lose its identity therein by the mere fact that its candidates, principles, and management are the same. Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

Evidence that organizations voting for same person were but one organization under different names held inadmissible. Clements v. People ex rel. Lee, 58 Colo. 105, 143 P. 834 (1914).

III. TAXPAYING ELECTOR.

The phrases "taxpaying elector" and "qualified taxpaying elector" describe situations in which payment of a property tax is an additional qualification for voting. Sheldon v. Moffat Tunnel Comm'n, 335 F. Supp. 251 (D. Colo. 1971).

However, these phrases are not used in connection with general elections. Sheldon v. Moffat Tunnel Comm'n, 335 F. Supp. 251 (D. Colo. 1971).

Only taxpaying electors entitled to vote on municipal bond issue. In an election on a municipal bond issue, it is clear that under this subsection only those electors who paid, or were obligated to pay, taxes on real or personal property subject to the mill levy of the municipality are eligible to vote. City of Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

And in such a case, the tax on real or personal property unquestionably means a tax on property which is subject to the mill levy of the city. City of Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

Hence, county taxpayers cannot vote in municipal elections. Registered electors of the city who paid taxes in the county, but who did not pay taxes on property in the city, do not have the right to vote on the question of the erection of a municipal electric light plant. City of Loveland v. W. Light & Power Co., 65 Colo. 55, 173 P. 717 (1918).

Moreover, a person who owns property which is assessed in the name of another is not a "taxpaying elector" qualified to vote in a municipal bond election. City of Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

Nor is a purchaser of realty under contract of sale. City of Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

As ownership of property in and of itself is insufficient to qualify a citizen to vote, the property owned must in fact be "assessed to" him upon the assessment rolls of the county. City of Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

"Taxpaying elector" also must be registered. In a municipal bond election a person who possesses all qualifications as to ownership and assessment of property is nevertheless not entitled to vote over the objection that he is not registered. City of

Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

1-1-105. Elections conducted pursuant to provisions that refer to qualified electors.

Any election, and any acts relating thereto, including but not limited to elections under this code, the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., school elections under title 22, C.R.S., and special district elections under title 32, C.R.S., which were conducted prior to July 1, 1987, pursuant to provisions which refer to a qualified elector rather than a registered elector and which were valid when conducted, shall be deemed and held to be legal and valid in all respects.

Source: L. 92: Entire article R&RE, p. 631, § 1, effective January 1, 1993.

Editor's note: This section is similar to former § 1-1-104.5 as it existed prior to 1992.

1-1-105.5. District elections conducted on or prior to May 3, 2016 - limitations on contests based on elector qualifications - exceptions - validation - definitions.

(1) (a) Except as provided in paragraph (c) of this subsection (1), for any district election conducted under this code or the "Colorado Local Government Election Code", article 13.5 of this title, and notwithstanding any provision of law to the contrary:

(I) No district election conducted prior to April 21, 2016, may be contested on the grounds that any person who voted at such election was not an eligible elector unless such a contest was initiated prior to April 21, 2016.

(II) No district election conducted on May 3, 2016, may be contested on the grounds that any person who voted at such election was not an eligible elector unless such a contest was initiated within the time period specified in section 1-11-213 or section 1-13.5-1403, C.R.S., as applicable.

(b) Except when a contest to elector qualifications has been timely initiated as described in this section, this section validates, ratifies, and confirms the qualifications of any person who voted at any district election held on or before May 3, 2016, notwithstanding any defects or irregularities in such qualifications.

(c) The bar to election contests in paragraph (a) of this subsection (1) does not apply to:

(I) Any district election conducted after January 1, 2012, if the contest to such election is made on the grounds that federal or state constitutional rights of eligible electors were violated in the conduct of the election; or

(II) Any district election conducted before January 1, 2012, if the contest to such election was initiated prior to April 21, 2016.

(2) For purposes of this section, "district" means any district formed under part 5 of article 20 of title 30, part 6 of article 25 of title 31, part 8 of article 25 of title 31, part 12 of article 25 of title 31, or article 1 of title 32, C.R.S.

Source: L. 2016: Entire section added, (SB 16-211), ch. 174, p. 595, § 2, effective May 18.

Cross references: For the legislative declaration in SB 16-211, see section 1 of chapter 174, Session Laws of Colorado 2016.

1-1-106. Computation of time.

(1) Calendar days shall be used in all computations of time made under the provisions of this code.

(2) In computing any period of days prescribed by this code, the day of the act or event from which the designated period of days begins to run shall not be included and the last day shall be included. Saturdays, Sundays, and legal holidays shall be included, except as provided in subsection (4) of this section.

(3) If a number of months is to be computed by counting the months from a particular day, the period shall end on the same numerical day in the concluding month as the day of the month from which the computation is begun; except that, if there are not that many days in the concluding month, the counting period shall end on the last day of the concluding month.

(4) If the last day for any act to be done or the last day of any period is a Saturday, Sunday, or legal holiday and completion of such act involves a filing or other action during business hours, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.

(5) If the state constitution or a state statute requires doing an act in "not less than" or "no later than" or "at least" a certain number of days or "prior to" a certain number of days or a certain number of months "before" the date of an election, or any phrase that suggests a similar meaning, the period is shortened to and ends on the prior business day that is not a Saturday, Sunday, or legal holiday, except as provided in section 1-2-201 (3).

Source: L. 92: Entire article R&RE, p. 631, § 1, effective January 1, 1993. **L. 93:** (5) amended, p. 1395, § 3, effective July 1. **L. 95:** (2) and (5) amended, p. 820, § 2, effective July 1. **L. 96:** (5) amended, p. 1773, § 76, effective July 1. **L. 99:** (4) and (5) amended, p. 756, § 2, effective May 20.

Editor's note: This section is similar to former § 1-1-105 as it existed prior to 1992.

Cross references: For computation of time under the statutes generally, see § 2-4-108.

ANNOTATION

This section shall be used in all computations of time made under the provisions of the elections statutes which relate to general, primary, and special (now congressional vacancy) elections. Ray v. Mickelson, 196 Colo. 325, 584 P.2d 1215 (1978) (decided under former law).

1-1-107. Powers and duties of secretary of state - penalty - repeal.

(1) In addition to any other duties prescribed by law, the secretary of state has the following duties:

(a) To supervise the conduct of primary, general, congressional vacancy, and statewide ballot issue elections in this state;

(b) To enforce the provisions of this code;

(c) With the assistance and advice of the attorney general, to make uniform interpretations of this code;

(d) To coordinate the responsibilities of the state of Colorado under the federal "National Voter Registration Act of 1993", 52 U.S.C. sec. 20501 et seq.; and

(e) To serve as the chief state election official within the meaning of the federal "Help America Vote Act of 2002", 52 U.S.C. 20901 et seq., and, in that capacity, to coordinate the responsibilities of the state of Colorado under the federal act in accordance with the requirements of this code.

(2) In addition to any other powers prescribed by law, the secretary of state has the following powers:

(a) To promulgate, publish, and distribute, either in conjunction with copies of the election laws pursuant to section 1-1-108 or separately, such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws, including but not limited to rules establishing the amount of fees as provided in this code;

(b) To inspect, with or without the filing of a complaint by any person, and review the practices and procedures of county clerk and recorders, their employees, and other election officials in the conduct of primary, general, and congressional vacancy elections and the registration of electors in this state;

(c) To employ, subject to section 13 of article XII of the state constitution, the personnel deemed necessary to efficiently carry out the powers and duties prescribed in this code; and

(d) To enforce the provisions of this code by injunctive action brought by the attorney general in the district court for the judicial district in which any violation occurs. Upon an enforcement action being brought pursuant to this subsection (2)(d), the court shall expedite scheduling and the issuance of any orders such that a final ruling is made within thirty days of the action being filed. The court may continue the action beyond thirty days upon the motion of any party and upon a showing of good cause. The district court proceedings may be reviewed and finally adjudicated by the supreme court of this state if either party makes application to the supreme court within three days after the district court proceedings are terminated, unless the supreme court, in its discretion, declines jurisdiction of the case. The supreme court shall expedite scheduling and the issuance of any orders such that a final ruling is made within fourteen days of an appeal being filed. If the supreme court declines to review the proceedings, the decision of the district court is final and not subject to further appellate review.

(e) (I) To, in consultation with the governor and, as practicable, the election emergency advisory group established in subsection (2)(e)(II) of this section, adopt rules as necessary for the proper administration of an election and to give effect to section 1-1-103 (1) if the governor declares a disaster emergency pursuant to section 24-33.5-704 (4) due to the inability to strictly comply with this code, including the suspension of any law pursuant to section 24-33.5-704 (7)(a).

(II) If the governor declares a disaster emergency pursuant to section 24-33.5-704 (4) due to inability to strictly comply with this code, the governor shall establish the election emergency advisory group. The secretary of state and governor shall consult as practicable with the election emergency advisory group on emergency orders or rules that the secretary of state may adopt as may be necessary to ensure the proper administration of an election and to give effect to section 1-1-103 (1).

(III) The election emergency advisory group consists of six members appointed as follows:

(A) One representative from the governor's office, appointed by the governor;

(B) One representative from the secretary of state's office, appointed by the secretary of state;

(C) Two current or former county clerks from different major political parties, appointed by the governor in consultation with the secretary of state; and

(D) Two individuals from different major political parties, with expertise on state or federal election law, administering elections, voting, or another relevant topic, appointed by the governor in consultation with the secretary of state.

(IV) This subsection (2)(e) is repealed, effective January 31, 2031.

(3) Repealed.

(4) Any other provision of law to the contrary notwithstanding, the office of the secretary of state, or the section or division administering the election laws of this state pursuant to this section, shall be open and available to the election officials and employees of the various political subdivisions conducting elections on each election day during the same hours that the polls are open for voting if the political subdivision has notified the office of the secretary of state that an election has been called and that the services of the office are desired.

(5) The provisions of this section are enacted, pursuant to section 11 of article VII of the state constitution, to secure the purity of elections and to guard against the abuses of the elective franchise.

(6) Repealed.

(7) No person while serving in the office of secretary of state shall serve as the highest ranking official, whether actual or honorary, in the campaign of any candidate for federal or statewide office. This subsection (7) shall not apply to a campaign in which the secretary of state is the candidate.

(8) The office of the secretary of state shall create training materials for county clerks and recorders to use to provide training and technical assistance to the individual designated by the sheriff pursuant to section 30-10-529 to facilitate voting for confined eligible electors at a county jail or detention center.

Source: L. 92: Entire article R&RE, p. 632, § 1, effective January 1, 1993. **L. 93:** (1)(a) amended, p. 1395, § 4, effective July 1. **L. 94:** (1)(d) added, p. 1751, § 2, effective January 1, 1995. **L. 95:** (6) added, p. 179, § 1, effective April 7. **L. 96:** (3) repealed, p. 1775, § 84, effective July 1. **L. 98:** (2)(a) amended, p. 1317, § 3, effective June 1. **L. 2001:** (6) amended, p. 518, § 6, effective January 1, 2002. **L. 2003:** (1)(e) added and (6) repealed, p. 2065, §§ 2, 3, effective May 22. **L. 2005:** (7) added, p. 1393, § 2, effective June 6; (7) added, p. 1428, § 2, effective June 6. **L. 2016:** (1)(d), (1)(e), IP(2), and (2)(b) amended, (SB 16-142), ch. 173, p. 566, § 2, effective May

18; (1)(d) amended, (SB 16-189), ch. 210, p. 753, § 2, effective June 6. **L. 2022:** (2)(d) amended, (SB 22-153), ch. 322, p. 2277, § 4, effective June 2. **L. 2024:** (8) added, (SB 24-072), ch. 298, p. 2031, § 1, effective May 31. **L. 2026:** (2)(e) added, (HB 26-1113), ch. 267, p. 1483, § 2, effective June 1.

Editor's note: This section is similar to former § 1-1-106 as it existed prior to 1992.

Cross references: For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

ANNOTATION

Secretary of state's power to promulgate rules regarding elections is not without limits. Under this section, the secretary of state has the authority to promulgate rules necessary to ensure the proper administration of elections. But the secretary lacks authority to promulgate rules that conflict with statutory provisions. Hanlen v. Gessler, 2014 CO 24, 333 P.3d 41.

Adoption of 8 Colo. Code Regs. 1505-1, § 10.7.5, of the secretary of state's rules regarding the treatment of votes cast for ineligible candidates exceeded the secretary's rulemaking authority. As a rule of general applicability, the rule specifically contravenes § 1-4-1002. The rule also contravenes the election code by permitting a designated election official to usurp the courts' express authority to determine issues regarding a candidate's eligibility that arise following certification to the ballot. The rule thus conflicts with the election code and is therefore void. Hanlen v. Gessler, 2014 CO 24, 333 P.3d 41.

Adoption of 8 Colo. Code Regs. 1505-6, § 9.3 of the secretary of state's rules concerning campaign and political finance requiring the name of the candidate unambiguously referred to in the electioneering communication to be included in the electioneering report was within the rulemaking authority of the secretary of state under § 9(1)(b) of article XXVIII of the state constitution and subsection (2)(a) of this section. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

1-1-108. Copies of election laws and manual provided.

(1) No later than sixty days after each adjournment of the general assembly, the secretary of state shall provide to the county clerk and recorder of each county access to a complete, updated copy of the pertinent sections of the election laws of the state.

(2) No later than January 15 in even-numbered years, the division of local government in the department of local affairs shall transmit to the designated election official of each special district organized under article 1 of title 32, C.R.S., entitled to hold elections or, if there is no designated election official, to the chief executive officer of the special district, at least one copy of the election laws. The designated election officials or chief executive officers of those special districts may request additional copies of the election laws.

Source: L. 92: Entire article R&RE, p. 633, § 1, effective January 1, 1993. **L. 93:** (1) amended, p. 1395, § 5, effective July 1. **L. 95:** Entire section amended, p. 820, § 3, effective July 1. **L. 96:** Entire section amended, p. 1733, § 3, effective July 1. **L. 99:** (1) amended, p. 757, § 3, effective May 20. **L. 2026:** (1) amended, (HB 26-1113), ch. 267, p. 1484, § 3, effective June 1.

Editor's note: This section is similar to former § 1-1-107 as it existed prior to 1992.

1-1-109. Forms prescribed - rules.

(1) Except as otherwise provided by this code, the secretary of state shall approve all forms required by this code, which forms shall be followed by county clerk and recorders, election judges, and other election officials. Prior to approving any election form, the secretary shall determine and consider best practices in the design and development of the form in order to minimize voter confusion and maximize ease of use.

(2) A registered elector shall make elector registration information changes on an approved form, and the elector registration information changes must be entered on the elector's registration record and retained and stored in the statewide voter registration system.

(3) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify what constitutes approved and acceptable forms certified for use by eligible voters, campaigns, and voter registration drives and acceptance by election officials and any rules necessary to establish uniformity regarding the use of forms.

Source: L. 92: Entire article R&RE, p. 633, § 1, effective January 1, 1993. **L. 96:** (1) amended, p. 1733, § 4, effective July 1. **L. 2003:** (1) amended, p. 2065, § 4, effective May 22. **L. 2009:** (1) amended and (3) added, (HB 09-1336), ch. 261, p. 1198, § 4, effective August 5. **L. 2016:** (2) amended, (SB 16-142), ch. 173, p. 566, § 3, effective May 18.

Editor's note: This section is similar to former § 1-1-108 as it existed prior to 1992.

1-1-110. Powers of county clerk and recorder and deputy - communication to electors.

(1) The county clerk and recorder, in rendering decisions and interpretations under this code, shall consult with the secretary of state and follow the rules and orders promulgated by the secretary of state pursuant to this code.

(1.5) Pursuant to section 24-4-106 (4.7), C.R.S., a county clerk and recorder is authorized to seek judicial review of final action undertaken by the secretary of state arising under this code.

(2) All powers and authority granted to the county clerk and recorder by this code may be exercised by a deputy clerk in the absence of the county clerk and recorder or if the county clerk and recorder for any reason is unable to perform the required duties.

(3) As the chief election official for the county, the county clerk and recorder shall be the chief designated election official for all coordinated elections.

(3.5) Repealed.

(3.7) As the chief election official for the county, and to comply with this code and the rules and orders established by the secretary of state, the county clerk and recorder shall set operational hours for the clerk and recorder's office.

(4) (a) Except as otherwise provided in section 1-2-302.5, any communication by mail from the county clerk and recorder to any registered elector pursuant to this title must be sent to the elector's address of record.

(b) and (c) Repealed.

(5) (a) Except as otherwise provided in this subsection (5) and notwithstanding any other provision of law, an elector may request to receive elections communication, except for ballots, confirmation cards, or correspondence sent in accordance with section 1-2-302.5 or 1-2-509 (3), from his or her county clerk and recorder by electronic transmission. With the request, the elector must submit an electronic-mail address to which the county clerk and recorder may send communication from the county clerk and recorder. The county clerk and recorder, upon receiving the request, may send all future elections communication, except for ballots, confirmation cards, or correspondence sent in accordance with section 1-2-302.5 or 1-2-509 (3), by electronic transmission to the electronic-mail address provided by the elector; except that:

(I) If an elector subsequently requests to cease the electronic transmission and requests to receive future elections communication by mail, the county clerk and recorder shall comply with the request; or

(II) If the county clerk and recorder, after sending such an electronic transmission, receives an undeliverable message or any other message indicating that the elector's electronic-mail address is no longer valid, the county clerk and recorder must send that particular communication by regular mail and shall not send any future elections communication by electronic transmission, unless the elector reapplies for electronic communications.

(b) An electronic-mail address provided by an elector shall not be made available to the public or any individual or organization other than an authorized agent of the local election official, and is exempt from disclosure under article 72 of title 24, C.R.S. The address may be used only for official communication with the elector about the voting process, if the elector has requested such electronic transmission under this subsection (5).

(c) All correspondence sent to an elector pursuant to this subsection (5) shall be maintained in the elector's registration records stored in the statewide voter registration system created in section 1-2-301; except that any undeliverable message or any other message indicating that the elector's electronic-mail address is no longer valid as described in subsection (5)(a)(II) of this section does not need to be stored in the statewide voter registration system.

(d) The failure of an elector to receive elections communication by electronic transmission is not grounds to invalidate an election if the county clerk and recorder acted in good faith in making the electronic transmission.

(e) Nothing in paragraph (a) of this subsection (5) prevents the receipt or return of a ballot via electronic transfer as set forth in section 1-7.5-115.

Source: L. 92: Entire article R&RE, p. 634, § 1, effective January 1, 1993. **L. 93:** (3) amended, p. 1396, § 6, effective July 1. **L. 96:** (3) amended, p. 1734, § 5, effective July 1. **L. 99:** (4) added, p. 279, § 2, effective August 4. **L. 2003:** (1) amended, p. 2065, § 5, effective May 22. **L. 2012:** (4)(a) amended and (4)(b) repealed, (HB 12-1292), ch. 181, p. 676, § 2, effective May 17. **L. 2013:** (4)(a) amended and (4)(c) and (5) added, (HB 13-1303), ch. 185, p. 683, § 4, effective May 10. **L. 2014:** (1.5) added, (HB 14-1354), ch. 159, p. 553, § 1, effective May 9. **L. 2016:** (4)(a) and IP(5)(a) amended and (4)(c) repealed, (HB 16-1093), ch. 126, p. 358, § 2, effective April 21. **L. 2018:** (5)(c) amended, (SB 18-233), ch. 262, p. 1603, § 1, effective May 29. **L. 2024:** (3.5) added, (SB 24-210), ch. 468, p. 3241, § 1, effective June 6. **L. 2026:** (3.7) added, (HB 26-1113), ch. 267, p. 1484, § 4, effective June 1.

Editor's note: (1) This section is similar to former § 1-1-109 as it existed prior to 1992.

(2) Subsection (3.5)(b) provided for the repeal of subsection (3.5), effective January 31, 2025. (See L. 2024, p. 3241.)

Cross references: In 2013, subsection (4)(a) was amended and subsections (4)(c) and (5) were added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Subsection (3) governs the timeliness of the filing of an annexation petition pursuant to § 30-6-105 and language of notification requirement in this section is mandatory and thus county board of commissioners is without discretion to shorten notice period. Sellers v. Bd. of County Comm'rs, 682 P.2d 509 (Colo. App. 1984) (decided under former law).

1-1-111. Powers and duties of governing boards.

(1) In addition to any other duties prescribed by law, the governing board of a political subdivision, other than a county or city and county, entitled to call elections shall have the following duties:

(a) To supervise the conduct of regular and special elections which it is authorized or required to call; and

(b) Where appropriate, to consult and coordinate with the county clerk and recorder of the county in which the political subdivision is located and with the secretary of state in regard to conducting elections and rendering decisions and interpretations under this code.

(2) All powers and authority granted to the governing board of a political subdivision, other than a county or city and county, may be exercised by an election official designated by the board. The governing body may also contract with the county clerk and recorder of the county in which the political subdivision is organized to perform all or part of the required duties in conducting the election.

(3) Elections which are set for the same date by various political subdivisions may be held as coordinated elections if the governing bodies so choose. Political subdivisions are authorized to cooperate and contract with each other to perform any function relating to an election.

Source: L. 92: Entire article R&RE, p. 634, § 1, effective January 1, 1993. **L. 93:** (3) amended, p. 1396, § 7, effective July 1. **L. 94:** (2) amended, p. 1150, § 3, effective July 1. **L. 96:** (3) amended, p. 1734, § 6, effective July 1. **L. 2024:** IP(1) and (2) amended, (SB 24-210), ch. 468, p. 3268, § 59, effective June 6.

Cross references: For violation of duty and penalty therefor, see § 1-13-107.

1-1-112. Powers and duties of election commission. (Repealed)

Source: L. 92: Entire article R&RE, p. 635, § 1, effective January 1, 1993. **L. 2016:** Entire section repealed, (SB 16-142), ch. 173, p. 593, § 82, effective May 18.

Editor's note: Prior to its repeal, this section was similar to former § 1-1-110 as it existed prior to 1992.

1-1-113. Neglect of duty and wrongful acts - procedures for adjudication of controversies - review by supreme court.

(1) When any controversy arises between any official charged with any duty or function under this code and any candidate, or any officers or representatives of a political party, or any persons who have made nominations or when any eligible elector files a verified petition in a district court of competent jurisdiction alleging that a person charged with a duty under this code has committed or is about to commit a breach or neglect of duty or other wrongful act, after notice to the official which includes an opportunity to be heard, upon a finding of good cause, the district court shall issue an order requiring substantial compliance with the provisions of this code. The order shall require the person charged to forthwith perform the duty or to desist from the wrongful act or to forthwith show cause why the order should not be obeyed. The burden of proof is on the petitioner.

(2) Repealed.

(3) The proceedings may be reviewed and finally adjudicated by the supreme court of this state, if either party makes application to the supreme court within three days after the district court proceedings are terminated, unless the supreme court, in its discretion, declines jurisdiction of the case. If the supreme court declines to review the proceedings, the decision of the district court shall be final and not subject to further appellate review.

(4) Except as otherwise provided in this part 1, the procedure specified in this section shall be the exclusive method for the adjudication of controversies arising from a breach or neglect of duty or other wrongful act that occurs prior to the day of an election.

(5) Notwithstanding any other provision of law, the procedures specified in section 1-1.5-105 shall constitute the exclusive administrative remedy for a complaint arising under Title III of the federal "Help America Vote Act of 2002", Pub.L. 107-252.

Source: L. 92: Entire article R&RE, p. 635, § 1, effective January 1, 1993. **L. 93:** (1) amended, p. 1396, § 8, effective July 1. **L. 94:** (2) amended and (4) added, p. 1151, § 4, effective July 1. **L. 2003:** (5) added, p. 2065, § 6, effective May 22. **L. 2007:** (3) amended, p. 1968, § 3, effective August 3. **L. 2010:** (2) repealed, (HB 10-1291), ch. 325, p. 1506, § 2, effective July 1.

Editor's note: This section is similar to former § 1-1-111 as it existed prior to 1992.

Cross references: (1) For violation of duty and penalty therefor, see § 1-13-107.

(2) For the "Help America Vote Act of 2002", see Pub.L. 107-252, codified at 52 U.S.C. sec. 20901 et seq.

ANNOTATION

I. General Consideration.

II. District Court to Decide.

III. Review by Supreme Court and Court of Appeals.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Authority of courts to determine election controversies when no candidate declared duly elected. State constitutional provisions and statutes permitting general assembly to judge election of members does not limit subject matter jurisdiction of district court to hear controversies related to elections where no candidate is yet declared duly elected by secretary of state. Meyer v. Lamm, 846 P.2d 862 (Colo. 1993) (decided under former § 1-1-112).

This section does not purport to impose any duty or function upon any election official, but rather provides a procedural vehicle for the adjudication of controversies arising from a breach or neglect of duty or other wrongful act that occurs prior to the day of an election. More particularly, it requires the district court, upon a finding of good cause, to issue an order requiring substantial compliance with the provisions of the election code whenever any eligible elector files a verified petition alleging that a person charged with a duty under the code has committed a breach or neglect of that duty or other wrongful act. Carson v. Reiner, 2016 CO 38, 370 P.3d 1137.

Conflict with § 1-4-501 (3). Because this section permits the adjudication of controversies arising from any wrongful act that occurs prior to the day of an election, without further limitation, while § 1-4-501 (3) provides a specific challenge to the qualification of a candidate if made by filing a verified petition with the district court within five days of his or her certification to the ballot, the two provisions very much appear to be in conflict. Because effect can reasonably be given to both provisions and because this section is not the later adopted of the two, the legislative prescription for this conflict is to give effect to § 1-4-501 (3) as the special, or more specific, provision. Carson v. Reiner, 2016 CO 38, 370 P.3d 1137.

This section stands in relation to § 1-4-501 (3) as a general to a special, or specific, provision. Carson v. Reiner, 2016 CO 38, 370 P.3d 1137.

This section does not permit a challenge to an election official's certification of a candidate to the ballot, solely on the basis of the certified candidate's qualification, once the § 1-4-501 (3) period for challenging the qualification of the candidate directly has expired. Carson v. Reiner, 2016 CO 38, 370 P.3d 1137.

Claims brought pursuant to this section are limited to those alleging a breach or neglect of duty or other wrongful act under the Uniform Election Code of 1992 (Code). Thus, claims brought under 42 U.S.C. § 1983 cannot be brought in proceedings under this section. Where subsection (1) allows a claim to be brought against an election official who has allegedly committed a "breach or neglect of duty or other wrongful act" under "this code", it is referring to a breach of duty or other wrongful action under the Code, not a § 1983 claim. Colorado courts remain entirely open for the adjudication of § 1983 claims, including on an expedited basis if a preliminary injunction is sought, and therefore § 1-1-113 does not run afoul of the supremacy clause. Frazier v. Williams, 2017 CO 85, 401 P.3d 541 (overruling Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006)); Williams v. Libertarian Party of Colo., 2017 CO 86, 401 P.3d 558 (overruling Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006)).

When a § 1983 claim is brought in a proceeding under this section, the district court should dismiss the claim without prejudice with leave to refile it in a separate action, which should then be assigned, where possible, to the same judge. Frazier v. Williams, 2017 CO 85, 401 P.3d 541 (overruling Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006)).

This section creates a cause of action for electors alleging a breach of duty or other wrongful act under the Code. Certifying an unqualified candidate to the presidential primary ballot constitutes a wrongful act that runs afoul of § 1-4-1203 (2). This section requires the district court, rather than the election official, to adjudicate an eligible elector's challenge to a candidate's eligibility. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds sub nom. Trump v. Anderson, 601 U.S. 100 (2024).

A 42 U.S.C. § 1983 claim of deprivation of rights, privileges, or immunities

secured by the federal constitution or federal law may be litigated under this section if the claim arises out of a common nucleus of operative facts as the state law claims. Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006), overruled in Frazier v. Williams, 2017 CO 85, 401 P.3d 541.

Colorado law permits the joinder of a 42 U.S.C. § 1983 claim with a claim under this section. Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006), overruled in Frazier v. Williams, 2017 CO 85, 401 P.3d 541.

Attorney fees should be awarded to a plaintiff pursuant to 42 U.S.C. § 1988 if the plaintiff's victory on a nonconstitutional claim prevents the court from reaching a substantial constitutional claim that arises out of a common nucleus of operative facts. Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006), overruled on other grounds in Frazier v. Williams, 2017 CO 85, 401 P.3d 541.

Plaintiffs made a substantial constitutional claim, which is a claim that is not wholly frivolous and does not conflict with any U.S. supreme court decisions, when they alleged that a state statute that requires unaffiliated candidates for the office of president and vice president of the United States to file candidate statements of intent nearly two months before statutory filing deadlines for affiliated candidates placed unequal burdens on unaffiliated candidates in violation of the first and fourteenth amendments to the U.S. constitution. Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006), overruled on other grounds in Frazier v. Williams, 2017 CO 85, 401 P.3d 541.

Petitioners' claim that former president is not qualified to be placed on the presidential primary election ballot may be properly litigated under this section. Although the secretary of state has no duty to independently investigate the qualifications of a presidential primary candidate, the petitioners may challenge a candidate's qualifications under § 1-4-1204, using this section as a procedural vehicle. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds sub nom. Trump v. Anderson, 601 U.S.100 (2024).

Constitutional challenges to provisions of the Code fall outside the scope of a proper challenge under this section. Expedited statutory proceedings under this section entertain only a claim regarding an election official's violations of the Code and only injunctive relief in the form of an order compelling substantial compliance with the Code. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds sub nom. Trump v. Anderson, 601 U.S. 100 (2024).

The form of proceeding under this section expeditiously resolves pre-election disputes and provides sufficient due process for evaluation whether a candidate satisfies the constitutional qualifications for the office he or she seeks. Given the tight deadlines for conducting elections, this section allows quick resolution to challenges brought by electors, candidates, and other designated plaintiffs against state officials prior to election day. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds sub nom. Trump v. Anderson, 601 U.S. 100 (2024).

The Code allows state courts, through challenges brought under this section and § 1-4-1204 (4), to assess the constitutional qualifications of a candidate and to order the secretary of state to exclude from the ballot candidates who are not qualified. These provisions advance the state's legitimate interest in protecting the integrity and practical functioning of the political process by allowing the secretary of state to exclude from the ballot candidates who are constitutionally prohibited from assuming office. These provisions neither infringe on a political party's associational rights nor compromise the validity of a court's ruling on complex factual and legal issues. Rather, they provide a robust vehicle through which to protect the purity of state elections. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds sub nom. Trump v. Anderson, 601 U.S. 100 (2024).

II. DISTRICT COURT TO DECIDE.

The court is given jurisdiction for the purpose of enforcing a substantial compliance with the provisions of election act by the parties to such controversy. People ex rel. McGaffey v. Dist. Court, 23 Colo. 150, 46 P. 681 (1896).

And provision for adjudication of controversies, being remedial in character, must be liberally construed in order that its purpose may be given effect. People v. Dist. Court, 23 Colo. 150, 46 P. 681 (1896).

The district court has jurisdiction to order the recognition by a state central committee of one who is admittedly a member of that body. People ex rel. Vick Roy v. Republican State Cent. Comm., 75 Colo. 312, 226 P. 656 (1924).

And it has jurisdiction to determine authority of the secretary of state. Where the secretary of state assumes jurisdiction, deciding a dispute, and the defeated party applies to the district court for relief, challenging the authority of the secretary to determine the controversy as well as the correctness of his decision upon the merits, the district court has jurisdiction to entertain the cause and determine the matter. People ex rel. McGaffey v. Dist. Court, 23 Colo. 150, 46 P. 681 (1896).

The district court had jurisdiction under this section to hear petitioners' claim regarding the secretary of state's ability to list a former president on the presidential primary ballot because he is not a "qualified candidate" based on the disqualification in section three of the fourteenth amendment to the U.S. Constitution. First, the petitioners are eligible electors within the meaning of the Code; second, the petitioners timely filed their verified petition under this section and § 1-4-1204 (4) in the proper district court; third, their petition was filed against the secretary of state, an election official charged with duties under the Code; and fourth, the petition alleged that the secretary of state was about to commit a breach of duty or other wrongful act under the Code by placing the former president on the presidential primary ballot because he is not constitutionally qualified to hold office. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds, 601 U.S. 100 (2024).

The provision for adjudication of controversies contemplates the taking of evidence where the issues require it. Leighton v. Bates, 24 Colo. 303, 50 P. 856, 50 P. 858 (1897).

III. REVIEW BY SUPREME COURT AND COURT OF APPEALS.

The provision for adjudication of controversies does not confer original jurisdiction on the supreme court. Leighton v. Bates, 24 Colo. 303, 50 P. 856, 50 P. 858 (1897).

Supreme court may in its discretion accept or reject an appeal with respect to nominations of candidates, and if it elects to accept the appeal, it may proceed in a summary way to dispose of it. In re Weber, 186 Colo. 61, 525 P.2d 465 (1974).

Court of appeals has jurisdiction to hear an appeal of a district court's denial of attorney fees under 42 U.S.C. § 1988. A judgment on the substantive merits of an action is separate from a judgment resolving a request for attorney fees. In addition, the § 1988 claim was not part of the summary proceedings pursuant to this section. The exceptions to the court of appeal's jurisdiction contained in this section and § 13-4-102 (1)(g) therefore are not applicable to the appeal. Brown v. Davidson, 192 P.3d 415 (Colo. App. 2006), overruled on other grounds in Frazier v. Williams, 2017 CO 85, 401 P.3d 541.

In expedited appeal under subsection (3), the supreme court concluded that the secretary of state may not certify incumbent U.S. representative to the 2018 Republican primary ballot. Kuhn v. Williams, 2018 CO 30M, 418 P.3d 478.

Section allows a protestor to challenge the underlying validity of the information on which the secretary of state legitimately relied in verifying a major-party candidate petition. In a proceeding brought under this section, a protestor may present additional evidence as to a circulator's compliance with the strictures of § 1-4-905. In other words, the protestors had a narrow opportunity to probe whether a particular circulator really was a Colorado resident when he acted as a circulator for the campaign of an incumbent U.S. representative. Kuhn v. Williams, 2018 CO 30M, 418 P.3d 478.

1-1-114. Registration deadline. (Repealed)

Source: L. 92: Entire article R&RE, p. 635, § 1, effective January 1, 1993. **L. 93:** Entire section amended, p. 1396, § 9, effective July 1. **L. 94:** Entire section amended, p. 1751, § 3, effective January 1, 1995. **L. 95:** Entire section amended, p. 820, § 4, effective July 1. **L. 96:** Entire section repealed, p. 1775, § 84, effective July 1.

Editor's note: This section was relocated to § 1-2-201 (3) in 1996.

1-1-115. Colorado voter access and modernized elections commission - creation - composition - terms - duties - report - definition - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 684, § 5, effective May 10. **L. 2014:** (3)(b)(III) amended, (SB 14-153), ch. 390, p. 1960, § 2, effective June 6.

Editor's note: Subsection (8) provided for the repeal of this section, effective July 1, 2015. (See L. 2013, p. 684.)

1-1-116. Access to precinct caucus - party assembly.

(1) The general assembly, the secretary of state, and each political party shall ensure that the caucus process or any future alternative process by which candidates may access the ballot that is accessible to persons with disabilities remains an option in the state.

(2) (a) Notwithstanding any provision to the contrary, within six months of August 7, 2024, any person who is eligible to participate in accordance with the provisions of section 1-3-101, upon request, must be able to participate in a precinct caucus or a party assembly with the use of a video conferencing platform without requiring or requesting an explanation of the need for the use of the video conferencing platform. It is in a political party's discretion to determine which video conferencing platform will be used for precinct caucuses and party assemblies so long as the platform is accessible to persons with disabilities. Each political party shall establish policies regarding the procedure and timeline for a person to request to participate in a precinct caucus or a party assembly with the use of a video conferencing platform.

(b) The requirements of subsection (2)(a) of this section do not apply when a precinct caucus or party assembly occurs in a geographic location that is in an unserved area of the state, as defined in section 40-15-102 (32); except that any person in such unserved area who is eligible to participate in accordance with the provisions of section 1-3-101, upon request, must be able to participate in such precinct caucus or party assembly with the use of an alternative to a video conferencing platform, such as a telephone conference call. The alternative means of participation used in accordance with this subsection (2)(b) must be accessible to persons with disabilities.

(c) (Deleted by amendment, L. 2026.)

(d) A political party may require that a person request to participate in a precinct caucus or a party assembly with the use of a video conferencing platform, or an alternative to a video

conferencing platform as provided in subsection (2)(b) of this section, not more than thirty days in advance of the precinct caucus or party assembly.

(3) The failure of any political party to make a reasonable effort to comply with the requirements of this section constitutes discrimination on the basis of disability in violation of section 24-34-601. Any person who is subjected to a violation of this section is entitled to seek all relief provided in section 24-34-602 (1.5) only against the central committee of the political party holding the caucus or assembly. An individual, including a member of the central committee of the political party or a volunteer for the political party, may not be held liable for a violation of this section.

(4) Any action taken pursuant to this section does not limit or preclude a person from securing or recovering any other available remedy including any remedy provided by the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and the Colorado anti-discrimination act, parts 3 to 8 of article 34 of title 24.

Source: L. 2024: Entire section added, (HB 24-1067), ch. 51, p. 179, § 2, effective August 7. **L. 2025:** (3) amended, (HB 25-1239), ch. 232, p. 1103, § 8, effective August 6. **L. 2026:** (2) and (3) amended, (HB 26-1023), ch. 73, p. 288, § 1, effective April 27.

Cross references: For the legislative declaration in HB 24-1067, see section 1 of chapter 51, Session Laws of Colorado 2024. For the legislative declaration in HB 25-1239, see section 1 of chapter 232, Session Laws of Colorado 2025.

1-1-117. Party member access to methods of selecting candidates for the general election.

Each major political party shall ensure that any future alternative process by which a party may select candidates for the general election, as provided by section 1-4-702, includes a process for party members to vote that does not require a party member to cast their vote in person and by which eligible party members not able to attend a nominating assembly or convention, convened as provided by section 1-4-702, in person can participate to the same extent as those voting in person.

Source: L. 2025: Entire section added, (SB 25-001), ch. 178, p. 744, § 2, effective August 6.

PART 2

TERMS OF OFFICE

1-1-201. Commencement of terms - state, congressional district, and county officers.

The regular terms of office of all state, congressional district, and county officers shall commence on the second Tuesday of January next after their election, except as otherwise provided by law.

Source: L. 92: Entire article R&RE, p. 636, § 1, effective January 1, 1993. **L. 93:** Entire section amended, p. 1397, § 10, effective July 1.

1-1-202. Commencement of terms - nonpartisan officers.

The regular terms of office of all nonpartisan officers elected at regular elections shall commence at the next meeting of the governing body following the date of the election, but no later than thirty days following the survey of returns and upon the signing of an oath and posting of a bond, where required, unless otherwise provided by law. If the election is canceled in whole or in part pursuant to section 1-5-208 (1.5), then the regular term of office of a nonpartisan officer shall commence at the next meeting of the governing body following the date of the regular election, but no later than thirty days following the date of the regular election and upon the signing of an oath and posting of a bond, where required, unless otherwise provided by law.

Source: L. 92: Entire article R&RE, p. 636, § 1, effective January 1, 1993. **L. 93:** Entire section amended, p. 1397, § 11, effective July 1. **L. 94:** Entire section amended, p. 1151, § 5, effective July 1. **L. 2001:** Entire section amended, p. 1001, § 1, effective August 8.

1-1-203. End of term.

A person elected or appointed to an office shall hold office until the successor is elected, qualified, and takes office on the second Tuesday of January, unless otherwise provided by law.

Source: L. 92: Entire article R&RE, p. 636, § 1, effective January 1, 1993. **L. 93:** Entire section amended, p. 1397, § 12, effective July 1.

PART 3

TRAINING AND CERTIFICATION OF ELECTION OFFICIALS

1-1-301. Certification program.

(1) The secretary of state shall establish and operate or provide by contract a certification program for local election officials on the conduct of elections, the federal "Help America Vote Act of 2002", 52 U.S.C. 20901 et seq., and other topics related to elections.

(2) The secretary of state shall establish by rule a curriculum for the certification program, including core requirements and electives, the required number of hours, and methods for continuing education.

(3) The secretary of state shall provide staffing and support services for the certification program.

(4) The secretary of state shall appoint an advisory board to oversee the certification process and the development of the curriculum.

Source: L. 2005: Entire part added, p. 1393, § 3, effective June 6; entire part added, p. 1428, § 3, effective June 6. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 567, § 4, effective May 18.

1-1-302. Persons required to complete certification - deadline.

(1) The following persons shall obtain certification in accordance with this part 3:

(a) The county clerk and recorder;

(b) Employees in the clerk and recorder's office who are directly responsible for overseeing elections;

(c) Other employees in the clerk and recorder's office at the discretion of the clerk and recorder;

(d) A designated election official for a county and a coordinated election official for a county; and

(e) Employees in the election division of the department of state at the discretion of the secretary of state.

(1.5) The secretary of state is strongly encouraged to obtain certification in accordance with this part 3.

(2) A person required to obtain certification shall:

(a) (Deleted by amendment, L. 2006, p. 2030, § 6, effective June 6, 2006.)

(b) Complete the certification requirements within one year of undertaking the responsibilities for which the person is required to obtain certification; except that a county clerk or deputy county clerk must complete the certification requirements required by this section within six months of taking office or before serving as the designated election official for a county or a coordinated election official, whichever is sooner; and

(c) Comply with the continuing education requirements prescribed by the secretary of state by rule.

(2.5) A person who is required to obtain certification pursuant to this section shall not serve as the designated election official for a county or the coordinated election official for a county unless the person has completed and maintained the certification required by this section. The department of state will make courses sufficiently available to enable persons to comply with the timing requirements for certification in this section. The secretary of state may waive the requirements of this subsection (2.5) for an individual who is appointed to the role of clerk, deputy clerk, designated election official for a county, or coordinated election official three months or less before an election.

(3) Nothing in this section is construed to require an elected official to attend a course of instruction or obtain a certification as a condition for seeking or holding elective office or as a condition for carrying out constitutional duties.

Source: L. 2005: Entire part added, p. 1394, § 3, effective June 6; entire part added, p. 1429, § 3, effective June 6. **L. 2006:** (2)(a) and (2)(b) amended, p. 2030, § 6, effective June 6. **L. 2022:** (1)(b), (2)(b), and (3) amended and (1)(d), (1)(e), (1.5), and (2.5) added, (SB 22-153), ch. 322, p. 2278, § 5, effective June 2.

Cross references: For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-1-303. Certification courses.

(1) The curriculum for certification in accordance with this part 3 must include courses in the following areas:

(a) General election law;

(b) The federal "Help America Vote Act of 2002";

(c) Professional development;

(d) Voter registration and list maintenance;

(e) Accessibility;

(f) Coordinated elections;

(g) Mail ballot and in-person voting processes;

(h) Voting systems testing;

(i) Risk-limiting audits; and

(j) Canvass.

(2) The secretary of state shall offer certification courses at least annually.

Source: L. 2005: Entire part added, p. 1394, § 3, effective June 6; entire part added, p. 1429, § 3, effective June 6. **L. 2022:** (1) amended, (SB 22-153), ch. 322, p. 2279, § 6, effective June 2.

Cross references: (1) For the federal "Help America Vote Act of 2002", see Pub.L. 107-252, codified at 52 U.S.C. sec. 20901 et seq.

(2) For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-1-304. Qualifications and conduct of election officials.

(1) A person shall not serve as the designated election official for a county or as the coordinated election official if the person:

(a) Has been convicted of any election offense found in article 13 of title 1 or any similar election offense in another state; or

(b) Has been convicted of committing or conspiracy to commit sedition, insurrection, treason, conspiracy to overthrow government by use of physical force or violence, or any similar federal offense.

Source: L. 2022: Entire section added, (SB 22-153), ch. 322, p. 2279, § 7, effective June 2.

Cross references: For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

PART 4

ELECTION REFORM COMMISSION

1-1-401 to 1-1-403. (Repealed)

Editor's note: (1) Section 1-1-403 provided for the repeal of this part 4, effective July 1, 2009. (See L. 2008, p. 2004.)

(2) This part 4 was added in 2008 and was not amended prior to its repeal in 2009. For the text of this part 4 prior to its repeal in 2009, consult the 2008 Colorado Revised Statutes.

ARTICLE 1.5

Help America Vote Act

1-1.5-101. Legislative declaration.
1-1.5-102. Definitions.
1-1.5-103. Conflict with federal law.
1-1.5-104. Powers and duties of secretary of state.
1-1.5-105. Complaint procedure.
1-1.5-106. Federal elections assistance fund - match requirements - maintenance of effort - grants and loans to counties.

1-1.5-101. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares that:

(a) The "Help America Vote Act of 2002", Pub.L. 107-252, was passed by the United States congress and signed into law by president George W. Bush on October 29, 2002.

(b) HAVA resulted from a national consensus that the nation's electoral system needs improvements to ensure that every eligible voter has the opportunity to vote, that every vote that should be counted will be counted, and that no legal vote will be canceled by a fraudulent vote.

(c) HAVA clearly defines the rights and privileges of those eligible individuals who seek to vote, including all overseas and military service voters, and seeks to prevent disenfranchisement

resulting from mistaken determinations of ineligibility to vote, the use of outdated voting systems that are unreliable or insufficiently accessible for disabled voters, or unnecessary administrative obstacles.

(d) To achieve these purposes, HAVA authorizes significant amounts of federal financial assistance to the states to finance the purchase of more reliable voting systems and mandates changes in the conduct of federal elections in all states for the purposes of ensuring greater access to the polls by individuals with disabilities, providing more information to individuals who wish to vote, improving the training of poll workers, and reducing the possibility of fraud in the electoral process.

(e) As a condition of the receipt of certain funds from the federal government under HAVA, section 253 (b)(5) of HAVA requires the states to appropriate funds for carrying out the activities for which such payments are made in an amount equal to five percent of the total amount to be spent for such activities.

(f) HAVA empowers the United States department of justice to bring civil actions seeking such declaratory and injunctive relief as may be necessary to carry out uniform and nondiscriminatory election technology and administration requirements. Accordingly, failure to satisfy the requirements of HAVA may subject election laws and procedures of this state to stringent review and approval by the United States department of justice.

(g) In order that its requirements may be effectively and uniformly implemented, HAVA mandates a greater role for the state governments and, in particular, the chief election official of each state, in overseeing and coordinating elections and in enforcing and implementing uniform standards in elections.

(h) In Colorado, the secretary of state is the chief state election official and, in that capacity, is charged by HAVA and existing state statutory provisions with responsibility for supervising the conduct of elections and for enforcing and implementing the provisions of HAVA and of this code.

(2) Now, therefore, by enacting this article, the general assembly intends to:

(a) Begin the process of implementing the changes in this code that are required by HAVA;

(b) Ensure the timely fulfillment by the state of all requirements for eligibility under HAVA to be able to receive appropriated federal funds under HAVA; and

(c) Provide the secretary of state with sufficient authority to ensure that the state of Colorado is fully compliant with all requirements imposed upon it pursuant to HAVA.

(3) The general assembly further intends that this article be liberally construed to effectuate its purposes as expressed in this section.

Source: L. 2003: Entire article added, p. 2065, § 7, effective May 22.

1-1.5-102. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Department" means the Colorado department of state.

(2) "Fund" means the federal elections assistance fund created in section 1-1.5-106.

(3) "HAVA" means the federal "Help America Vote Act of 2002", 52 U.S.C. 20901 et seq.

(4) "Secretary" means the Colorado secretary of state.

Source: L. 2003: Entire article added, p. 2067, § 7, effective May 22. **L. 2004:** (3) amended, p. 1186, § 1, effective August 4. **L. 2016:** (3) amended, (SB 16-142), ch. 173, p. 567, § 5, effective May 18.

1-1.5-103. Conflict with federal law.

If the secretary or a court of competent jurisdiction determines there is a conflict between this article or any other provision of this code and any provision of HAVA, the provisions of HAVA and any rules promulgated thereunder shall control, and the secretary shall perform the duties and discharge the obligations contained in the federal act. If such a determination is made, the secretary shall submit a report to the general assembly explaining the conflict and suggesting language to change this article in the next legislative session.

Source: L. 2003: Entire article added, p. 2067, § 7, effective May 22.

ANNOTATION

Federal and state provisions regarding who is authorized to file an administrative complaint under the federal Help America Vote Act are in conflict because the rule of standing under § 1-1.5-105 (2)(b) is narrower than, and inconsistent with, the federal provision under 42 U.S.C. § 15512(a)(1) and (a)(2)(B). Therefore, according to this section and 42 U.S.C. § 15512(a)(1), the federal statute must control. Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

District court had subject matter jurisdiction under this section to determine whether there is a conflict

between 42 U.S.C. § 15512(a)(2)(B) and § 1-1.5-105 (2)(b). Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

1-1.5-104. Powers and duties of secretary of state.

(1) The secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements imposed upon it pursuant to HAVA to be eligible on a timely basis for all federal funds made available to the state under HAVA, including, without limitation, the power and duty to:

(a) Develop and require education and training programs and related services for state, county, and local election officials involved in the conduct of elections;

(b) Promulgate, oversee, and implement changes in the statewide voter registration system as specified in part 3 of article 2 of this title;

(c) Establish a uniform administrative complaint procedure in accordance with the requirements of section 1-1.5-105;

(d) Issue appropriate orders to county or local election officials in connection with the proper administration, implementation, and enforcement of the federal act, which orders shall be enforceable in a court of competent jurisdiction;

(e) Promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of this article; and

(f) Exercise any other powers or perform any other duties that are consistent with this article and that are reasonably necessary for the proper administration, implementation, and enforcement of HAVA and that will improve the conduct of elections in the state in conformity with HAVA.

(2) (a) Acting either upon his or her own initiative or upon a complaint submitted to him or her giving the secretary reasonable grounds to believe that an election in this state is not being conducted in accordance with the requirements of HAVA or of this code, the secretary may investigate the allegation of noncompliance. In connection with such an investigation, the secretary may:

(I) Compel the testimony of witnesses and the production of documents from any state, county, or local official involved in the conduct of the election; and

(II) Send one or more official election observers to any county in the state to examine the conduct of any aspect of any election giving rise to the allegation of noncompliance. The clerk and recorder of the county in which the allegation of noncompliance arises shall assume the costs associated with the travel and other expenses of any observers sent to the county pursuant to this

subparagraph (II) where the secretary has reasonable grounds to believe that the election is not being conducted in accordance with the requirements of HAVA or of this code.

(b) In order to satisfy the requirements of this subsection (2), the secretary may require that each county designate not less than three persons experienced in the conduct of elections to form a pool of official election observers.

(3) With the exception of a complaint brought under section 1-1.5-105 to remedy an alleged violation of HAVA, any interested party that has reasonable grounds to believe that an election is not being conducted in conformity with the requirements of this code may apply to the district court in the judicial district in which the allegation of noncompliance arises for an order giving the secretary access to all pertinent election records used in conducting the election and requesting the secretary to conduct the election.

(4) The secretary shall seek the full amount of funds available to the state under HAVA for distribution to the counties in accordance with HAVA.

Source: L. 2003: Entire article added, p. 2067, § 7, effective May 22. **L. 2005:** (4) added, p. 1394, § 4, effective June 6; (4) added, p. 1429, § 4, effective June 6.

1-1.5-105. Complaint procedure.

(1) Subject to the requirements of this section, in accordance with section 402 of HAVA, the secretary may establish by rule a uniform administrative complaint procedure to remedy grievances brought under Title III of HAVA.

(2) Any rules promulgated pursuant to subsection (1) of this section must provide for, but need not be limited to, the following:

(a) A uniform and nondiscriminatory complaint procedure;

(b) Authorization for any person who believes that there is a violation of Title III of HAVA, including a violation that has occurred, is occurring, or that is about to occur, to file a complaint;

(c) A description by the complainant in his or her complaint of the alleged violation with particularity and a reference to the section of HAVA alleged to have been violated;

(d) A requirement that the complaint be filed no later than one year from the date of either the occurrence of the alleged violation or of the election giving rise to the complaint, whichever is later;

(e) A requirement that each complaint be in writing and notarized, signed, and sworn by the person filing the complaint;

(f) Authorization for the secretary to consolidate two or more complaints;

(g) At the request of the complainant, a hearing on the record;

(h) Authorization for the secretary to provide an appropriate remedy if the secretary determines that any provision of Title III of HAVA has been violated or to dismiss the complaint and publish the results of his or her review if the secretary determines that no provision of Title III of HAVA has been violated;

(i) A final determination on the complaint by the secretary prior to the expiration of the ninety-day period that begins on the date the complaint is filed, unless the complainant consents to an extension of time for making such determination;

(j) Resolution of the complaint within sixty days under an alternative dispute resolution procedure that the secretary shall establish in accordance with the requirements of this section if the secretary fails to satisfy the applicable deadline specified in paragraph (i) of this subsection (2), and the availability of the record and any other materials from any proceedings conducted under the complaint procedures established for use under such alternative dispute resolution procedures;

(k) Authorization for the secretary to conduct a preliminary review of any complaint submitted to him or her and to dismiss any complaint that he or she finds is not supported by credible evidence; and

(l) Recovery by the secretary of the costs of the proceeding against any complainant who files a complaint that, in connection with the final determination by the secretary pursuant to paragraph (i) of this subsection (2), is found, on the basis of clear and convincing evidence, to be frivolous, groundless, or vexatious.

(3) Notwithstanding any other provision of law:

(a) No complaint shall be brought pursuant to the procedure created by this section unless the complaint alleges a violation of Title III of HAVA;

(b) Proceedings for the resolution of a complaint brought pursuant to this section shall not be considered an adjudication under article 4 of title 24, C.R.S.; and

(c) The procedures created by this section shall constitute the exclusive administrative remedy for a violation of Title III of HAVA.

(4) Any person aggrieved by a final determination by the secretary acting pursuant to paragraph (i) of subsection (2) of this section may appeal the secretary's determination to the district court in and for the city and county of Denver within thirty days of the date of the determination.

Source: L. 2003: Entire article added, p. 2069, § 7, effective May 22. **L. 2016:** IP(2) and (2)(b) amended, (SB 16-142), ch. 173, p. 567, § 6, effective May 18.

ANNOTATION

Federal and state provisions regarding who is authorized to file an administrative complaint under the federal Help America Vote Act (HAVA) are in conflict because the rule of standing under subsection (2)(b) is narrower than, and inconsistent with, the federal provision under 42 U.S.C. § 15512(a)(1) and (a)(2)(B). Therefore, according to § 1-1.5-103 and 42 U.S.C. § 15512 (a)(1), the federal statute must control. Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

Secretary of state's dismissal of complaint for lack of standing constituted a final determination on the complaint pursuant to subsection (2)(i) and, therefore, the decision was appealable to the district court under the appeal clause in subsection (4). Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

The district court did not err in considering complainant's state HAVA claims under the judicial review principles of the State Administrative Procedure Act (APA) and in remanding the case for further administrative proceedings. When considered in conjunction with § 24-4-105, the purpose of subsection (3)(b) of this section, the so-called "adjudication clause" of the state version of the federal HAVA, is to spare the secretary and persons filing administrative complaints under the state HAVA from having to observe the numerous, and somewhat complex, procedural requirements contained in § 24-4-105, and to curtail the administrative rights and obligations the parties would ordinarily have in adjudicatory proceedings. The court also rejected the secretary of state's assertion that, if a statute precludes the application of the administrative procedures under this section, it necessarily precludes judicial review under the APA. Accordingly, the district court had plenary authority under § 24-4-106 (7) to review and remand this case for further proceedings if it concluded that the agency acted contrary to law. Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

The exclusive administrative remedy clause under subsection (3)(c) does not limit an aggrieved party's judicial remedies. The clause does not refer to a complainant's available judicial remedies; it refers only to the procedures that constitute the administrative remedy for a violation of title III of the federal HAVA. The plain meaning of "administrative remedy" does not include a judicial remedy. This interpretation is further supported by the appeals clause in subsection (4), which allows a person aggrieved by a final determination of the secretary to appeal the decision to the district court, and thus, potentially obtain a judicial remedy. Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

Although the APA rules and procedures do not apply to the secretary's resolution

of a state HAVA administrative complaint at the agency level, the APA does apply to judicial review in the district court of the secretary's determination. Subsections (3)(b) and (3)(c) exclude only the administrative procedure provisions set forth under § 24-4-105. They do not limit the availability of judicial remedies. At the agency level, a person filing a state HAVA administrative complaint is only entitled to administrative procedures and rights included in the state HAVA statute itself and is not entitled to or burdened by the additional administrative procedures, rights, and obligations provided under the APA. Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

Complainant satisfied jurisdictional prerequisites for standing as well as the standing requirements to obtain judicial review of an agency action under the APA and HAVA. Complainant had legal standing to maintain her first claim for relief in which she sought judicial review under subsection (4) and § 24-4-106 of the dismissal of her state HAVA complaint. Because complainant alleged that defendants deprived her of her legally protected interests in using the administrative complaint procedure to remedy violations of the federal HAVA and a hearing on the record in connection with her state HAVA administrative complaint, she alleged a sufficient injury in fact. Injury in fact is also supported by complainant's allegations in her administrative complaint that she believed violations of title III of the federal HAVA occurred during the 2010 general election. Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

Complainant also suffered an injury to a legally protected interest. Subsection (2)(b) provides complainant with a right to file a state HAVA complaint and subsection (2)(g) states that a complainant is entitled to a hearing on the record. In addition, complainant has a right under § 24-4-106 (2) of the APA to seek judicial review of the agency action. Defendants' dismissal of her complaint for lack of standing violated her right to file a state HAVA complaint, and, therefore, she was adversely affected by the decision. Likewise, subsection (4) also provides complainant with a right to seek judicial review of the decision. Marks v. Gessler, 2013 COA 115, 350 P.3d 883.

1-1.5-106. Federal elections assistance fund - match requirements - maintenance of effort - grants and loans to counties.

(1) (a) There is hereby created in the state treasury the federal elections assistance fund, which fund shall be administered by the secretary and shall consist of:

(I) All moneys received by the state from the federal government pursuant to HAVA;

(II) All moneys appropriated or otherwise made available to the fund by the general assembly for the purpose of carrying out the activities required by HAVA;

(III) All moneys received by the state as payment from the counties pursuant to subsection (3) of this section;

(IV) Moneys collected by the secretary for the implementation of this article from federal grants and other contributions, grants, bequests, and donations received from individuals, private organizations, or foundations; and

(V) Interest earned on deposits made to the fund.

(b) All moneys specified in paragraph (a) of this subsection (1) shall be transmitted to the state treasurer to be credited to the fund.

(2) (a) Any moneys received by the state from the federal government pursuant to HAVA shall be used by the state only for the purposes specified by the provisions of HAVA under which the moneys were provided.

(b) All moneys in the fund are continuously appropriated to the department for the proper administration, implementation, and enforcement of HAVA in accordance with the requirements of this article. All moneys in the fund at the end of each fiscal year shall be retained in the fund and shall not revert to the general fund or any other fund.

(3) Subject to available appropriations, the secretary may direct that moneys in the department of state cash fund created in section 24-21-104 (3)(b), C.R.S., as of July 1, 2003, be used to satisfy in whole or in part the requirement of section 253 (b)(5) of HAVA that the state appropriate funds for carrying out the activities for which federal payments are being made in an amount equal to five percent of the total amount to be spent for such activities. In order to assist the state in satisfying this requirement of HAVA, the secretary may assess the counties for a share of the financial requirement assessed against the state under HAVA as specified in this subsection (3) and may establish by rule a plan to fairly and reasonably allocate the financial obligation among the counties pursuant to this subsection (3).

(4) For the 2002-03 fiscal year, and for each fiscal year thereafter in which the state receives payments from the federal government in accordance with Title I of HAVA, and subject to available appropriations, the general assembly shall make an annual appropriation to the department out of moneys in the department of state cash fund for election-related purposes that is not less than the level of expenditures for such purposes maintained by the state for the 2001-02 fiscal year.

(5) For the 2002-03 fiscal year, and for each fiscal year thereafter in which the state receives payments from the federal government in accordance with Title I of HAVA, and subject to available appropriations, the secretary shall maintain out of moneys in the department of state cash fund a level of expenditures in support of the statewide voter registration system created in section 1-2-301 that is not less than the level of expenditures for such purposes maintained by the secretary for the 2001-02 fiscal year.

(6) For the county fiscal year that ends prior to November 1, 2003, and for each county fiscal year thereafter in which the state receives payments from the federal government in accordance with Title I of HAVA, each county shall maintain not less than the same amount of expenditures on activities arising under Title III of HAVA that it expended on such activities for its fiscal year ending prior to November 2002, excluding moneys expended during that period for capital expenditures on new voting equipment or any other one-time capital expenditure as determined by the secretary.

(7) The secretary may establish a program pursuant to which the secretary may award grants or loans to the counties for the purpose of assisting the counties in meeting any of the requirements imposed upon them pursuant to HAVA or by this article. In connection with the establishment of any such program created pursuant to this subsection (7), the secretary shall specify, without limitation, qualification requirements for eligibility to receive a grant or loan, administration of the grant or loan program, criteria for awarding a grant or loan, any limit on the total amount of moneys to be awarded in a grant or loan pursuant to the requirements of this subsection (7), any limit on the amount to be awarded to any one grant or loan recipient, auditing or reporting requirements for grant or loan recipients, penalty provisions where grant or loan moneys are expended improperly, and, in the case of loans, repayment terms. Notwithstanding any other provision of law, each loan awarded pursuant to this subsection (7) shall bear interest at a specified rate.

(8) In response to the failure by a county to satisfy any of the requirements imposed upon it pursuant to this section, the secretary may deduct from the reimbursement to which the county would ordinarily be entitled pursuant to section 1-5-505.5 the amount of moneys owed by the county pursuant to this section.

(9) Any county may donate to the state equipment for voter registration purposes in accordance with part 3 of article 2 of this title, which equipment is determined to be usable by the secretary. In exchange for such donation, the county shall receive a credit in the amount of the fair market value of the item donated against the financial obligation assessed against the county pursuant to subsection (3) of this section.

Source: L. 2003: Entire article added, p. 2070, § 7, effective May 22.

ARTICLE 2

Qualifications and Registration of Electors

PART 1
QUALIFICATIONS OF ELECTORS

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1-2-104. Additional qualifications.

PART 2
REGISTRATION OF ELECTORS

1-2-201. Registration required - deadlines - additional identifying information to be provided by first-time registrants.

1-2-202. Registration by county clerk and recorder.

1-2-202.5. Online voter registration - online changes in elector information.

1-2-203. Registration on Indian reservations.

1-2-204. Questions answered by elector - rules.

1-2-205. Self-affirmation made by elector.

1-2-206. Declaration of party affiliation. (Repealed)

1-2-207. Affidavit registration. (Repealed)

1-2-208. Registration by federal postcard application - definitions. (Repealed)

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PART 1

QUALIFICATIONS OF ELECTORS

1-2-101. Qualifications for registration - preregistration.

(1) Every person who is eighteen years of age or older on the date of the next election and who has the following qualifications is entitled to register to vote at all elections:

(a) The person is a citizen of the United States; and

(b) The person has resided in this state twenty-two days immediately prior to the election at which the person intends to vote.

(2) (a) (I) Notwithstanding subsection (1) of this section, upon satisfactory proof of age, every person who is otherwise qualified to register and is fifteen years of age or older but will not have reached eighteen years of age by the date of the next election may preregister and update the person's preregistered information by any means authorized in this article for persons eighteen years of age or older. Upon reaching eighteen years of age, the person is automatically registered.

(II) Repealed.

(b) The registration requirements of section 1-2-201 apply to a person preregistering to vote under this subsection (2).

(c) A person preregistered under this subsection (2) who is seventeen years of age on the date of a primary election or presidential primary election and who will be eighteen years of age on the date of the next general election is entitled to vote in the primary election or presidential primary election.

(3) Repealed.

Source: L. 92: Entire article R&RE, p. 636, § 2, effective January 1, 1993. **L. 93:** (1)(b) amended, p. 1397, § 13, effective July 1. **L. 94:** (1)(b) amended, p. 1751, § 4, effective January 1, 1995. **L. 95:** (1)(b) amended, p. 821, § 5, effective July 1. **L. 96:** (1)(b) amended, p. 1734, § 7, effective July 1. **L. 2013:** (1)(b) amended, (HB 13-1303), ch. 185, p. 687, § 6, effective May 10; (2) added, (HB 13-1135), ch. 184, p. 677, § 1, effective August 7. **L. 2018:** (3) added, (SB 18-150), ch. 261, p. 1600, § 1, effective July 1, 2019. **L. 2019:** (3) repealed, (HB 19-1266), ch. 283, p. 2644, § 5, effective July 1; (2)(c) added, (HB 19-1278), ch. 326, p. 3005, § 3, effective August 2. **L. 2024:** (2)(a)(I) amended, (SB 24-210), ch. 468, p. 3241, § 2, effective January 1, 2025.

Editor's note: (1) This section is similar to former § 1-2-101 as it existed prior to 1992.

(2) Subsection (2)(a)(II)(B) provided for the repeal of subsection (2)(a)(II), effective July 1, 2014. (See L. 2013, p. 677.)

Cross references: (1) For qualifications of electors, see also § 1 of art. VII, Colo. Const.; for voting age for electors, see § 1 of art. VII, Colo. Const., and article XXVI of the Constitution of the United States; for registration of citizens residing outside the United States, see article 8.3 of this title; for offenses relating to unlawful qualification as a taxpaying elector, see § 1-13-202.

(2) In 2013, subsection (1)(b) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

(4) For the legislative declaration in HB 19-1266, see section 1 of chapter 283, Session Laws of Colorado 2019.

ANNOTATION

I. General Consideration.

II. Residency.

I. GENERAL CONSIDERATION.

Law reviews. For comment on Porter v. Johnson appearing below, see 2 Rocky Mt. L. Rev. 131 (1930).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The state has the power to prescribe reasonable and nondiscriminatory qualifications for voting in federal as well as state elections. Hall v. Beals, 292 F.

Supp. 610 (D. Colo. 1968), vacated as moot, 396 U.S. 45 (1969).

And requirements as to the qualifications of electors are mandatory, and must be strictly observed. Jain v. Bossen, 27 Colo. 423, 62 P. 194 (1900); People v. Turpin, 49 Colo. 234, 112 P. 539 (1910); City of Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

This section provides the necessary qualifications for a voter and elector. Cox v. Starkweather, 128 Colo. 89, 260 P.2d 587 (1953).

After an elector demonstrates those qualifications, the election code directs that he "shall" be registered and permitted to vote. Sheldon v. Moffat Tunnel Comm'n, 335 F. Supp. 251 (D. Colo. 1971).

Unsworn declarations of a voter are inadmissible to impeach his qualifications as an elector, Sharp v. McIntire, 23 Colo. 99, 46 P. 115 (1896).

However, when such declarations are made prior or subsequent to the time of voting they are admissible to impeach the voter's qualifications when made concurrently with the act of voting in the presence of the judges of the election. Sharp v. McIntire, 23 Colo. 99, 46 P. 115 (1896).

Statutes prohibiting permanent resident aliens from voting in school elections, which incorporate the substantive and procedural requirements concerning general elections into school elections, are constitutional. Skafte v. Rorex, 191 Colo. 399, 553 P.2d 830 (1976).

Applied in Hesseltine v. United States, 538 F. Supp. 1003 (D. Colo. 1982).

II. RESIDENCY.

An essential qualification of a voter is that he shall have resided in the state, county, and ward or precinct for the required time immediately preceding the election at which he offers to vote. Sharp v. McIntire, 23 Colo. 99, 46 P. 115 (1896).

The state may require its voters to be residents. Jarmel v. Putnam, 179 Colo. 215, 499 P.2d 603 (1972).

The purposes of residency requirements are: (1) To preserve the purity of elections, and (2) To prevent the control of state affairs by persons who have no pecuniary interest in them. Hall v. Beals, 292 F. Supp. 610 (D. Colo. 1968), vacated as moot, 396 U.S. 45 (1969).

Thus the status of transient is not that of residency. Jarmel v. Putnam, 179 Colo. 215, 499 P.2d 603 (1972).

As some time limit must be set for determining who is and who is not a resident for the purposes of voting, not only to preserve the purity of the election, but also for administrative reasons. Hall v. Beals, 292 F. Supp. 610 (D. Colo. 1968), vacated as moot, 396 U.S. 45 (1969).

Moreover, a federal court cannot substitute personal views of what time limit would accomplish the objectives of a residency requirement for the judgment of the Colorado general assembly in the absence of a showing of unreasonable discrimination. Hall v. Beals, 292 F. Supp.

610 (D. Colo. 1968), vacated as moot, 396 U.S. 45 (1969).

But previous section's requirement of three months durational residency as condition of right to vote held unconstitutional. Jarmel v. Putnam, 179 Colo. 215, 499 P.2d 603 (1972).

Test of residency after elector moves from precinct. The following inquiry is required to be undertaken if an elector has moved outside the boundaries of his voting precinct and wishes to retain his right to vote within the precinct: (1) Had the elector established his principal or primary home or place of abode within the election precinct? and (2) was the individual's departure taken or does his absence continue with a present intention of returning to the precinct in the future? Gordon v. Blackburn, 618 P.2d 668 (Colo. 1980).

Intent to keep legal residence central factor. Once a person's legal residence has been established, his intent to keep it becomes the central factor in determining whether it continues. Gordon v. Blackburn, 618 P.2d 668 (Colo. 1980).

But mere intention without other indicia not enough. The mere intention to return to a former abode at some more or less indefinite time, with no other indicia of a home or domicile, may not fulfill the usual requirements of legal residence for voting purposes. Gordon v. Blackburn, 618 P.2d 668 (Colo. 1980).

Evidence supported conclusion that school teachers had moved to the town with intention of establishing permanent residence. Porter v. Johnson, 85 Colo. 440, 276 P. 333 (1929).

1-2-102. Rules for determining residence.

(1) The following rules shall be used to determine the residence of a person intending to register or to vote in any precinct in this state and shall be used by election judges in challenge procedures:

(a) (I) The residence of a person is the principal or primary home or place of abode of a person. A principal or primary home or place of abode is that home or place in which a person's habitation is fixed and to which that person, whenever absent, has the present intention of returning after a departure or absence, regardless of the duration of the absence. Except as otherwise provided in this section, a residence is a permanent building or part of a building and may include a house, condominium, apartment, room in a house, or mobile home. No vacant lot or business address shall be considered a residence.

(I.5) If the residence of an elector is destroyed or becomes uninhabitable, due to a natural disaster or for any other reason, and the elector has the present intention of returning to the residence once it is habitable or returning to a newly constructed residence at the same address, the elector may continue to use the address of the destroyed or uninhabitable residence as the elector's residence.

(II) For the purpose of voter registration residence, a homeless elector shall identify a specific location within a county where the elector returns to regularly. This location may include a homeless shelter, a homeless services provider, a park, a campground, a vacant lot, a business address, or any other physical location. If the homeless elector's registration residence does not include a mailing address, the elector shall also provide a mailing address.

(b) In determining what is the principal or primary place of abode of a person, the following circumstances relating to the person shall be taken into account: Business pursuits, employment, income sources, residence for income or other tax purposes, age, marital status, residence of parents, spouse or civil union partner, and children, if any, leaseholds, situs of personal and real property, existence of any other residences and the amount of time spent at each residence, and motor vehicle registration.

(c) Repealed.

(d) A person shall not be considered to have gained a residence in this state, or in any county or municipality in this state, while retaining a home or domicile elsewhere.

(e) If a person moves to any other state with the intention of making it a permanent residence, that person is considered to have lost Colorado residence after twenty-two days' absence from this state unless the person has evidenced an intent to retain a residence in this state by a self-affirmation executed pursuant to section 1-7.5-107 (3)(b.5).

(f) After a person moves from one residence to another and has made the new residence his or her sole legal place of residence, the person is considered to have residence at the residence in this state to which the person moved.

Source: L. 92: Entire article R&RE, p. 636, § 2, effective January 1, 1993. **L. 94:** (1)(e) and (1)(f) amended, p. 1752, § 5, effective January 1, 1995. **L. 96:** (1)(a) and (1)(e) amended, pp. 1734, 1773, §§ 8, 77, effective July 1. **L. 2013:** (1)(b), (1)(e), and (1)(f) amended, (HB 13-1303), ch. 185, p. 687, § 7, effective May 10. **L. 2014:** (1)(f) amended, (SB 14-161), ch. 160, p. 555, § 2, effective May 9. **L. 2018:** (1)(a)(II) amended, (SB 18-233), ch. 262, p. 1603, § 2, effective May 29. **L. 2022:** (1)(a)(I) and (1)(c) amended and (1)(a)(I.5) added, (SB 22-152), ch. 100, p. 476, § 1, effective April 13. **L. 2023:** (1)(c) repealed, (SB 23-276), ch. 399, p. 2371, § 2, effective June 6.

Editor's note: This section is similar to former § 1-2-102 as it existed prior to 1992.

Cross references: (1) For change of residence, see § 1-2-216; for penalty for voting by giving false information regarding place of residence, see § 1-2-228; for residency requirement for electors, see § 1-2-101 (1)(b).

(2) In 2013, subsections (1)(b), (1)(e), and (1)(f) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

I. General Consideration.

II. Establishing Residence.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

II. ESTABLISHING RESIDENCE.

A person is not entitled to vote unless he has adopted the state as a fixed and permanent habitation. Merrill v. Shearston, 73 Colo. 230, 214 P. 540 (1923).

And there must not only be a personal presence, but an intent to make the place his true home. Merrill v. Shearston, 73 Colo. 230, 214 P. 540 (1923).

And a change of voting place is compelling evidence of an intention to make a change in residence. Kellner v. Dist. Court, 127 Colo. 320, 256 P.2d 887 (1953).

But residence is not acquired by mere intention. People v. Turpin, 49 Colo. 234, 112 P. 539 (1910).

The mere intention to return to a former abode at some more or less indefinite time, with no other indicia of a home or domicile, may not fulfill the usual requirements of legal residence for voting purposes. Gordon v. Blackburn, 618 P.2d 668 (Colo. 1980).

As the residence contemplated is synonymous with home or domicile and means actual settlement within the state. Sharp v. McIntire, 23 Colo. 99, 46 P. 115 (1896); People v. Turpin, 49 Colo. 234, 112 P. 539 (1910).

Hence, mere purchase of home in the state is not sufficient. The purchase by a citizen of another state of a plantation in this state with a bona fide purpose to remove to it, and make it his home as soon as possession can be acquired, but in the meantime retaining his former home, does not constitute him a resident of this state, though he afterwards, pursuing his original purpose, removes to this state and establishes himself here. People v. Turpin, 49 Colo. 234, 112 P. 539 (1910).

For residence and capacity as an elector relate to the day of actual settlement in this state, and not to the day when the purpose was formed. People v. Turpin, 49 Colo. 234, 112 P. 539 (1910).

Moreover, one who has a home or domicile in another state cannot by a sojourn here, however long, acquire a

residence in this state, within the meaning of this section, without abandoning his former domicile. Sharp v. McIntire, 23 Colo. 99, 46 P. 115 (1896).

Thus, to effect a change of residence from one state to another, there must be an actual removal, an actual change of domicile, and a bona fide intention of abandoning the former place of residence and establishing a new one. People v. Turpin, 49 Colo. 234, 112 P. 539 (1910).

Test of residency after elector moves from precinct. The following inquiry is required to be undertaken if an elector has moved outside the boundaries of his voting precinct and wishes to retain his right to vote there: (1) Had the party established his principal or primary home or place of abode within the election precinct? and (2) was the individual's departure taken or does his absence continue with a present intention of returning to the precinct in the future? Gordon v. Blackburn, 618 P.2d 668 (Colo. 1980).

Intent to keep legal residency central factor. Once a person's legal residence has been established, his intent to keep it becomes the central factor in determining whether it continues. Gordon v. Blackburn, 618 P.2d 668 (Colo. 1980).

Some time limit must be set for determining who is and who is not a resident for the purpose of voting, not only to preserve the purity of the election but also for administrative reasons. Hall v. Beals, 292 F. Supp. 610 (D. Colo. 1968).

Temporary move for work purposes does not constitute abandonment of domicile. Where a man and his wife had acquired a domicile in a town and a short while before an election they moved to another place where the man had a contract to work with the intention of residing there till the contract was finished and during the time left their home in the town with part of their furniture in the care of another, they had not abandoned their domicile and were legally entitled to vote at an election in the town of their domicile occurring during the time of their residence at the place of the work. Jain v. Bossen, 27 Colo. 423, 62 P. 194 (1900).

One does not lose voting rights by reason of departure or absence from primary home, once it has been established. Gordon v. Blackburn, 618 P.2d 668 (Colo. 1980).

But where a person registers in another state and makes declarations to that end, that person cannot legally vote in Colorado. Kellner v. Dist. Court, 127 Colo. 320, 256 P.2d 887 (1953).

The factors listed in subsection (1)(b) for determining an elector's residency for voter registration purposes also control in determining a circulator's residency under § 1-4-905 (1). Kuhn v. Williams, 2018 CO 30M, 418 P.3d 478.

The district court erred as a matter of law by relying exclusively on the stated subjective intent of a circulator for the campaign of an incumbent U.S. representative, without considering the objective indicia of his principal or primary place of abode under subsection (1)(b) to determine his residency. Because each of the

objective factors delineated in subsection (1)(b) indicates that another state and not this state was the circulator's "primary or principal place of abode" as a matter of law, he was not a resident of this state during the time he served as a circulator for the campaign. Because he did not meet the statutory requirements to be a circulator, the signatures he collected must be struck from the campaign's candidate-nomination petition. Kuhn v. Williams, 2018 CO 30M, 418 P.3d 478.

1-2-103. Military service - students - inmates - persons with behavioral or mental health disorders - confinement.

(1) For the purposes of registration, voting, and eligibility for office, no person gains residence by reason of that person's presence, or loses it by reason of absence, while in the civil or military service of the state or of the United States; while a student at any institution of higher education; or while confined in a correctional facility, jail, or state institution if the person is not serving a sentence for a felony conviction.

(2) The provisions of subsection (1) of this section notwithstanding, no person otherwise qualified under the provisions of this code shall be denied the right to register or to vote at any election held within this state solely because that person is a student at an institution of higher education.

(3) No provision in this section shall apply in the determination of residence or residence status of students for any college or university purpose.

(4) No person while serving a sentence of detention or confinement in a correctional facility, jail, or other location for a felony conviction is eligible to register to vote or to vote in any election. A confined prisoner who is awaiting trial but has not been tried or who is not serving a sentence for a felony conviction shall be certified by the institutional administrator, may register to vote pursuant to this article 2, and may list his or her confinement location as his or her ballot address in accordance with section 1-2-204 (2)(f.3). An individual serving a sentence of parole is eligible to register to vote and to vote in any election.

(5) A person confined in a state institution for persons with behavioral or mental health disorders shall not lose the right to vote because of the confinement.

Source: L. 92: Entire article R&RE, p. 637, § 2, effective January 1, 1993. **L. 95:** (4) amended, p. 821, § 6, effective July 1. **L. 2005:** (4) amended, p. 1395, § 5, effective June 6; (4) amended, p. 1430, § 5, effective June 6. **L. 2006:** (5) amended, p. 1394, § 29, effective August 7. **L. 2017:** (5) amended, (SB 17-242), ch. 263, p. 1262, § 29, effective May 25. **L. 2018:** (1) and (4) amended, (SB 18-233), ch. 262, p. 1604, § 3, effective May 29. **L. 2019:** (4) amended, (HB 19-1266), ch. 283, p. 2643, § 3, effective July 1.

Editor's note: This section is similar to former § 1-2-103 as it existed prior to 1992.

Cross references: (1) For when residence does not change because of presence in the state as a student, inmate, or due to civil or military service, see § 4 of art. VII, Colo. Const.; for disfranchisement during imprisonment, see § 10 of art. VII, Colo. Const.

(2) For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1266, see section 1 of chapter 283, Session Laws of Colorado 2019.

ANNOTATION

I. General Consideration.

II. Civil or Military Service.

III. Students.

IV. Inmates.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Due Process in Involuntary Civil Commitment and Incompetency Adjudication Proceedings: Where Does Colorado Stand?", see 46 Den. L.J. 516 (1969).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Judicial notice taken of location of public institutions and elections precinct boundaries. Israel v. Wood, 93 Colo. 500, 27 P.2d 1024 (1933).

A person serving a sentence of parole does not meet the constitutional requirement of having served out the full term of imprisonment and, therefore, is ineligible to vote. Danielson v. Dennis, 139 P.3d 688 (Colo. 2006).

II. CIVIL OR MILITARY SERVICE.

Mere presence of disabled soldiers in government hospital does not constitute residence. A hospital maintained by the United States government for the treatment of disabled soldiers, who may be transferred or discharged as determined by the government authorities, is an asylum, as that term is used in § 4 of art. VII, Colo. Const., and the inmates of such an institution are not, on account of their mere residence there, entitled to vote at general elections, as the presence in such a hospital does not constitute a residence as is required by this section. Merrill v. Shearston, 73 Colo. 230, 214 P. 540 (1923).

III. STUDENTS.

A student has no right to vote at the place where he resides for the purposes of education. Sharp v. McIntire, 23 Colo. 99, 46 P. 115 (1896).

Thus a student in a college town is presumed not to have the right to vote. Merrill v. Shearston, 73 Colo. 230, 214 P. 540 (1923).

And if he attempts to vote, the burden is upon him to prove his residence at that place, which must be done by other evidence than his mere presence in the town. Merrill v. Shearston, 73 Colo. 230, 214 P. 540 (1923).

Moreover, a student coming to the state for the sole purpose of attending school, not intending to stay after the completion of his course, does not acquire a residence for the purpose of voting. Parsons v. People, 30 Colo. 388, 70 P. 689 (1902).

IV. INMATES.

Presence in an institution as public charges raised a presumption against the right to vote in the precinct in which such is situated and requires evidence to overcome that presumption. Merrill v. Shearston, 73 Colo. 230, 214 P. 540 (1923); Kemp v. Heebner, 77 Colo. 177, 234 P. 1068 (1925); Israel v. Wood, 93 Colo. 500, 27 P.2d 1024 (1933).

But if, just prior to becoming inmates, voters have a bona fide residence in the precinct in which an institution is situated, they do not lose their residence in that precinct by becoming inmates. Israel v. Wood, 93 Colo. 500, 27 P.2d 1024 (1933).

"Prisoner" construed. The term "prisoner", as used in subsection (4), means one confined to serve a term of imprisonment. Moore v. MacFarlane, 642 P.2d 496 (Colo. 1982) (decided under this section as it existed prior to 1992 repeal and reenactment of this article).

Pretrial detainees may vote. Subsection (4) does not prohibit pretrial detainees confined in a jail or correctional facility from exercising the right to vote. Moore v. MacFarlane, 642 P.2d 496 (Colo. 1982) (decided under this section as it existed prior to 1992 repeal and reenactment of this article).

1-2-104. Additional qualifications.

The authorizing legislation, as defined in section 1-1-104 (1.5), may provide additional or alternative qualifications for a person to become an eligible elector of a political subdivision.

Source: L. 92: Entire article R&RE, p. 638, § 2, effective January 1, 1993. **L. 94:** (1)(a) amended, p. 1752, § 6, effective January 1, 1995. **L. 96:** Entire section amended, p. 1735, § 9, effective July 1.

Editor's note: This section is similar to former § 1-2-104 as it existed prior to 1992.

PART 2

REGISTRATION OF ELECTORS

1-2-201. Registration required - deadlines - additional identifying information to be provided by first-time registrants.

(1) No person shall be permitted to cast a regular ballot at any election without first having been registered within the time and in the manner required by the provisions of this article. No charge shall be made for registration.

(2) Each elector registering shall sign his or her name on the registration record or, if unable to write, shall make a personal mark or be provided assistance to make such a mark by the county clerk and recorder or any other person authorized by the county clerk and recorder or the elector. The elector shall answer the questions required by section 1-2-204 and shall complete the self-affirmation required by section 1-2-205.

(3) (a) Any other provisions of this title to the contrary notwithstanding, an elector is permitted to vote in any primary, presidential, general, coordinated, special legislative, municipal, congressional vacancy, special district, or other election if he or she timely registers to vote before or on the date of such election.

(b) An elector may timely register to vote by:

(I) Submitting an application through a voter registration drive no later than twenty-two days before the election; except that, if the twenty-second day before an election is a Saturday, Sunday, state legal holiday, or federal holiday recognized by the United States postal service, the elector is permitted to register on the next day that is not a Saturday, Sunday, state legal holiday, or federal holiday recognized by the United States postal service;

(II) Registering through a high school, in accordance with part 4 of this article 2;

(III) Submitting an application through the mail, a voter registration agency, a local driver's license examination facility, or the online voter registration system established pursuant to section 1-2-202.5 (7)(c), through the eighth day prior to an election; except that, if the eighth day before an election is a Saturday, Sunday, or legal holiday, the elector is permitted to register on the next day that is not a Saturday, Sunday, or legal holiday;

(IV) Appearing in-person at the elector's county clerk and recorder's office at any time during which registration is permitted at the office; or

(V) Appearing in-person at a voter service and polling center pursuant to section 1-2-217.7 at any time during which the voter service and polling center is open, including on election day.

(4) To receive a ballot by mail for an election conducted under this code, an elector must submit his or her voter registration application on or before the eighth day before the election.

(5) An elector who submits a voter registration form and has not previously voted in the state shall:

(a) Submit with the voter registration form a copy of identification as defined in section 1-1-104 (19.5), the elector's driver's license number, or the last four digits of the elector's social security number; or

(b) Submit a copy of identification as defined in section 1-1-104 (19.5) with the elector's mail ballot in accordance with section 1-7.5-107 (3.5).

Source: L. 92: Entire article R&RE, p. 638, § 2, effective January 1, 1993. **L. 94:** (2) amended, p. 1752, § 7, effective January 1, 1995. **L. 96:** (2) amended and (3) added, p. 1735, §§ 10, 11, effective July 1. **L. 97:** (3) amended, p. 471, § 2, effective July 1. **L. 99:** (3) amended, p. 757, § 4, effective May 20; (3) amended, p. 1389, § 6, effective June 4. **L. 2005:** (1) amended, p. 1395, § 6, effective June 6; (1) amended, p. 1430, § 6, effective June 6. **L. 2013:** (3) amended, (HB 13-1303), ch. 185, p. 688, § 8, effective May 10. **L. 2014:** (3)(b)(I) and (3)(b)(III) amended and (4) added, (SB 14-161), ch. 160, p. 556, § 3, effective May 9. **L. 2016:** (5) added, (SB 16-142), ch. 173, p. 567, § 7, effective May 18. **L. 2021:** (3)(b)(I) amended, (SB 21-250), ch. 282, p. 1630, § 2, effective June 21.

Editor's note: (1) This section is similar to former § 1-2-201 as it existed prior to 1992.

(2) In 1996, § 1-1-114 was relocated to subsection (3).

(3) Amendments to subsection (3) by Senate Bill 99-025 and House Bill 99-1097 were harmonized.

(4) Subsection (5) is similar to the former § 1-2-501 (1.5), as it existed prior to 2016.

Cross references: (1) For eligibility of nonresident citizens to vote, see article 8.3 of this title; for challenge of registration, see § 1-9-101. For offenses relating to registration, see §§ 1-13-201, 1-13-203, and 1-13-205.

(2) In 2013, subsection (3) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Law reviews. For note, "Purged Voter Lists", see 44 Den. L.J. 279 (1967).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Registration precedes an election and is a distinct subject of legislation. Aichele v. People ex rel. Lowry, 40 Colo. 482, 90 P. 1122 (1907).

Therefore, jurisdiction of the courts to protect registration books from padding is something distinct from jurisdiction of the conduct of an election on the day when voting takes place. Aichele v. People ex rel. Lowry, 40 Colo. 482, 90 P. 1122 (1907).

Registration laws to be construed to effectuate constitutional requirement election purity. Since § 11 of art. VII, Colo. Const., requires the general assembly "to pass laws to secure the purity of elections", registration laws enacted in compliance with this requirement should be construed to effectuate the intent and purpose of the constitutional requirement. People ex rel. Johnson v. Earl, 42 Colo. 238, 94 P. 294 (1908).

Section held not to apply to school elections. Guyer v. Stutt, 68 Colo. 422, 191 P. 120 (1920).

1-2-202. Registration by county clerk and recorder.

(1) The county clerk and recorder shall register any eligible elector residing in any precinct in the state of Colorado who appears in person at any office regularly maintained by the county clerk and recorder and staffed by regular employees at any time. If the elector resides in a county other than where he or she is registering, the registration shall be forwarded to the county clerk and recorder of the county in which the elector resides.

(2) Each municipal clerk shall serve as a deputy registrar. The municipal clerk shall register any eligible elector who appears in person at the municipal clerk's primary office at any time during which registration is permitted in the office of the county clerk and recorder. The municipal clerk shall deliver the new registration records to the office of the county clerk and recorder either in person or by mail no later than the tenth day of each month for the month immediately prior and in person on the day following the last day for registration preceding any election for which registration is required.

(3) (Deleted by amendment, L. 94, p. 1753, § 8, effective January 1, 1995.)

(4) If the county clerk and recorder finds that a precinct is composed of three percent or more non-English-speaking eligible electors, the county clerk and recorder shall take affirmative action to recruit full-time or part-time staff members who are fluent in the language used by the eligible electors and in English. The action shall be conducted through voluntarily donated public service notices in the media, including newspapers, radio, and television, particularly those media which serve those non-English-speaking persons.

(5) Repealed.

(6) (Deleted by amendment, L. 97, p. 471, § 3, effective July 1, 1997.)

(7) Registration records for any election shall include all those electors who have registered up to and including election day.

Source: L. 92: Entire article R&RE, p. 639, § 2, effective January 1, 1993. **L. 93:** (2) amended, p. 1397, § 14, effective July 1. **L. 94:** (1) amended, p. 1151, § 6, effective July 1; (1), (2), (3), and (7) amended, p. 1753, § 8, effective January 1, 1995. **L. 95:** (1), (2), and (7) amended, p. 821, § 7, effective July 1. **L. 97:** (1), (2), (6), and (7) amended, p. 471, § 3, effective July 1. **L. 99:** (2) amended, p. 757, § 5, effective May 20. **L. 2010:** (5) repealed, (HB 10-1116), ch. 194, p. 829, § 1, effective May 5. **L. 2013:** (7) amended, (HB 13-1303), ch. 185, p. 688, § 9, effective May 10.

Editor's note: (1) This section is similar to former § 1-2-202 as it existed prior to 1992.

(2) Amendments to subsection (1) by House Bill 94-1286 and House Bill 94-1294 were harmonized.

Cross references: (1) For verification of registration sheets and admissibility thereof in evidence in criminal proceedings for election offenses, see §§ 1-2-205 (4) and 1-13-207; for questions answered and oath taken by the elector, see §§ 1-2-204 and 1-2-205.

(2) In 2013, subsection (7) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

I. General Consideration.

II. Registering Qualified Elector.

III. Registering Family Member.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

II. REGISTERING QUALIFIED ELECTOR.

The entire purpose of the election law, insofar as it relates to the subject of registration, is to render it impossible to prevent registration on account of political affiliations or preferences. People ex rel.

Smith v. Dist. Court, 33 Colo. 22, 78 P. 679 (1904).

Person complying with section is entitled to have name upon registration list. People ex rel. Smith v. Dist. Court, 33 Colo. 22, 78 P. 679 (1904).

And in such instances there is no power to prevent the registration. See People ex rel. Smith v. Dist. Court, 33 Colo. 22, 78 P. 679 (1904).

Nor strike the name from the registration list. See People ex rel. Smith v. Dist. Court, 33 Colo. 16, 78 P. 684 (1904).

However, registration lists are only prima facie evidence that the persons whose names appear thereon are legally qualified to vote, and so, when they present themselves at the polls, they may be challenged. People ex rel. Smith v. Dist. Court, 33 Colo. 22, 78 P. 679 (1904).

Closing registration books 32nd day before election is constitutional. Since the state is entitled to a reasonable time to complete whatever administrative tasks are necessary to prevent fraud, the requirement that registration books be closed after the 32nd day before an election is constitutionally valid. Jarmel v. Putnam, 179 Colo. 215, 499 P.2d 603 (1972) (decided prior to 1992 repeal and reenactment of this article).

But county clerks must register any persons otherwise qualified as electors who are or will be residents of the state for 32 days on the date of the election for which they seek to register. Jarmel v. Putnam, 179 Colo. 215, 499 P.2d 603 (1972) (decided prior to 1992 repeal and reenactment of this article).

III. REGISTERING FAMILY MEMBER.

Where individuals are members of a religious order, then, even though they live together in a community, such a community within the meaning of this section is not such a family as to make registration valid. Goss v. Klipfel, 112 Colo. 87, 146 P.2d 217 (1944).

1-2-202.5. Online voter registration - online changes in elector information.

(1) (a) An elector may register to vote, and a registered elector may change his or her residence in the registration record or change or withdraw his or her affiliation, by completing an electronic form on the official website of the secretary of state if the elector's signature is stored in digital form in the database systems maintained by the department of state pursuant to section 1-2-301 (1) or is accessible to the department of state in accordance with the requirements of section 1-2-302 (6), or if the elector provides the last four digits of the elector's social security number and the number can be validated through the department of revenue pursuant to section 1-2-302 (6.7).

(b) The official website referenced in paragraph (a) of this subsection (1) shall be fully secure. The website shall maintain the confidentiality of all users and preserve the integrity of the

data submitted. Further specifications regarding the security of the website may be promulgated by the secretary by rule in accordance with the provisions of section 1-1-107 (2)(a).

(1.5) A person may preregister pursuant to section 1-2-101 (2) on the official website referenced in, and in accordance with the signature requirements of, subsection (1) of this section, and any person that has preregistered may change his or her information on the registration record by completing an electronic form on the official website referenced in subsection (1) of this section.

(2) The secretary of state shall make available on the secretary of state's official website electronic forms for persons to apply to register to vote and for a registered elector to change his or her residence or change or withdraw his or her affiliation.

(3) The electronic voter registration form must include:

(a) (I) The questions "Are you a citizen of the United States of America?", "Are you at least fifteen years of age?", "Do you understand that you must be at least eighteen years old to be eligible to vote in any election?", "Have you resided in Colorado for at least twenty-two days immediately prior to the election?","Do you reside in the precinct in which you intend to register?", "Is the address you have listed your sole legal place of residence for purposes of voting?", and "Do you affirm that you will not cast more than one ballot in any election?" and places for the elector to input answers to the questions.

(II) Following the questions listed in subparagraph (I) of this paragraph (a), the form shall include the statement "If you checked 'no' in response to any of these questions, do not complete this application because you do not qualify as an eligible elector in accordance with section 1-2-101, Colorado Revised Statutes.".

(b) The questions specified in section 1-2-204 (2) with places for the elector to input information in response to the questions;

(c) (I) A place for the elector to input additional information, as determined by the secretary of state, necessary to locate the elector's signature in the database systems specified in subsection (1) of this section and a place for the elector to assent to the use of the signature for voter registration purposes.

(II) A place for the elector, in the alternative, to enter the last four digits of the elector's social security number to be validated pursuant to subsection (1) of this section and to upload a signature electronically.

(d) The self-affirmation required under section 1-2-205; and

(e) A statement that notifies the user of the website that it is against the law to knowingly submit false information or to tamper with another person's voter registration information.

(4) (a) The electronic form for a registered elector to change his or her residence shall include the information required by section 1-2-216 (1).

(b) The electronic form for a registered elector to change or withdraw his or her affiliation shall include the information required by section 1-2-219 (1).

(c) Repealed.

(d) In addition to any other requirements of this section, in order for a registered elector to access the electronic form to change his or her residence or change or withdraw his or her affiliation, the registered elector shall submit his or her birth date and, if the elector wishes to state them, the last four digits of his or her social security number.

(5) The signature requirement of section 1-2-201 (2) is met by an elector's assent on the electronic application to the use of his or her signature for voter registration purposes, the return of an elector's signature in response to a notice sent pursuant to subsection (7)(a) or (7)(b) of this section, or the return of an elector's signature and copy of the elector's identification pursuant to section 1-7.5-107.3 (1.5).

(6) The county clerk and recorder shall determine if the information submitted on the electronic form is complete prior to approving a new registration or approving an elector's change in residence or change in or withdrawal of his or her affiliation.

(7) (a) (I) When a person completes an electronic voter registration form in accordance with subsection (3) of this section and is qualified to register based on the information provided in the form, the county clerk and recorder shall search for the elector's signature in the database systems specified in subsection (1) of this section. If the signature is found, the county clerk and recorder shall approve the new registration pursuant to subsection (6) of this section and shall add the elector to the computerized statewide voter registration list maintained by the secretary of state pursuant to section 1-2-301 (1).

(II) If a signature is not found, but the elector provided the last four digits of the elector's social security number, the county clerk and recorder shall:

(A) Approve the new registration pursuant to subsection (6) of this section and shall add the elector to the computerized statewide voter registration list maintained by the secretary of state pursuant to section 1-2-301 (1); and

(B) Send to the elector's address of record, by nonforwardable mail, notice that the elector has been registered to vote, a postage paid preaddressed return form by which the elector may return a signature, and information on how the elector can upload a signature electronically.

(b) (I) When a registered elector completes an electronic form to change his or her residence or change or withdraw his or her affiliation, the county clerk and recorder shall search for the registered elector's signature in the database systems specified in subsection (1) of this section. If

the signature is found, the county clerk and recorder shall approve the change in status pursuant to subsection (6) of this section and shall make the changes indicated on the electronic form in the computerized statewide voter registration list maintained by the secretary of state pursuant to section 1-2-301 (1).

(II) If a signature is not found, but the elector provided the last four digits of the elector's social security number, the county clerk and recorder shall:

(A) Approve the change in status pursuant to subsection (6) of this section and shall make the changes indicated on the electronic form in the computerized statewide voter registration list maintained by the secretary of state pursuant to section 1-2-301 (1); and

(B) Send to the elector's address of record, by nonforwardable mail, notice of the change in status, a postage paid preaddressed return form by which the elector may return a signature, and information on how the elector can upload a signature electronically.

(c) (I) A person attempting to register or update his or her residence through the online voter registration system after the eighth day before an election shall be registered and immediately informed that the person must instead visit a voter service and polling center to receive a ballot for the election.

(II) A change or withdrawal of affiliation made in accordance with this section applies to an election if the elector completes the electronic form no later than twenty-two days before the election; except that, if the twenty-second day before an election is a Saturday, Sunday, or legal holiday, the change or withdrawal applies if made by the next day that is not a Saturday, Sunday, or legal holiday.

(d) (I) If a notice provided under subsection (7)(a)(II) or (7)(b)(II) of this section is returned as undeliverable within twenty days after the county clerk and recorder mails the notice, the person's registration or change in status is canceled and the person is deemed never to have registered or changed status. If the notice is returned as undeliverable after twenty days after the county clerk and recorder mails the notice, the person's registration is marked inactive.

(II) Notwithstanding subsection (7)(d)(I) of this section, if a person votes in an election after submitting the application for registration or change in status but before the notice is returned as undeliverable, the person's registration or change in status shall not be canceled and the registration shall not be marked inactive.

(8) (a) No later than July 1, 2011, the secretary of state shall make available on the secretary of state's official website a link to the department of revenue's official website, whereby an elector may change his or her address information on file with the department of revenue for driver's license or identification card purposes.

(b) No sooner than November 1, 2011, and no later than January 1, 2012, the secretary of state shall make available on the secretary of state's official website a link to the department of

revenue's official website, whereby an elector may change his or her address information for state income tax purposes.

Source: L. 2009: Entire section added, (HB 09-1160), ch. 263, p. 1205, § 1, effective May 15. **L. 2010:** (8) added, (HB 10-1045), ch. 317, p. 1478, § 1, effective July 1, 2011. **L. 2013:** (1)(a), (2), IP(3), (3)(a)(I), (4)(d), (6), (7)(b), and (7)(c) amended and (4)(c) repealed, (HB 13-1303), ch. 185, p. 688, § 10, effective May 10; (1.5) added, (HB 13-1135), ch. 184, p. 678, § 2; effective August 7. **L. 2014:** (4)(d), (7)(b), and (7)(c)(I) amended, (SB 14-161), ch. 160, p. 556, § 4, effective May 9. **L. 2016:** (3)(b), (3)(d), and (7)(c)(II) amended, (SB 16-142), ch. 173, p. 567, § 8, effective May 18. **L. 2017:** (1)(a) amended, (HB 17-1107), ch. 101, p. 376, § 35, effective August 9. **L. 2019:** (3)(a)(I) amended, (HB 19-1278), ch. 326, p. 3006, § 4, effective August 2. **L. 2021:** (1)(a), (3)(c), (5), (7)(a), (7)(b), and (7)(c)(II) amended and (7)(d) added, (SB 21-250), ch. 282, p. 1631, § 3, effective March 1, 2022. **L. 2024:** (3)(a)(I) amended, (SB 24-210), ch. 468, p. 3242, § 3, effective January 1, 2025.

Cross references: (1) In 2013, subsections (1)(a) and (2), the introductory portion to subsection (3), and subsections (3)(a)(I), (4)(d), (6), (7)(b), and (7)(c) were amended and subsection (4)(c) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-2-203. Registration on Indian reservations.

(1) The secretary or secretary's designee of any tribal council of an Indian tribe located on a federal reservation serves as a deputy registrar only for registration purposes for the county in which the reservation is located. The secretary of the tribal council or the secretary's designee shall register any eligible elector residing in any precinct in the county who provides information sufficient to complete a voter registration application to the secretary of the tribal council at any time during which registration is permitted in the office of the county clerk and recorder. The secretary of the tribal council shall forward the registration records to the county clerk and recorder, either in person or by certified mail, on or before the fifteenth day of each month; except that, within twenty-two days before an election, the secretary of the tribal council shall appear in person or transmit daily to deliver any registration records to the county clerk and recorder. Within eight days before an election, the secretary of the tribal council shall accept an

application and inform the applicant that he or she must go to a voter service and polling center in order to vote in that election.

(2) An eligible elector who lives on an Indian reservation, but who does not have a residence address recognized by the United States postal service, may register to vote using, as his or her residence address, the address of the tribal council headquarters or any other address approved by the secretary of the tribal council.

(3) The tribe, upon approval from the tribal council, may provide to the secretary of state's office a list of tribal members eligible to vote in an election conducted pursuant to this title 1. The secretary of state and the tribal council must determine and agree upon the format for the tribal membership list. The secretary of state may promulgate rules to effectuate the sharing of this information with the appropriate Colorado counties to register to vote tribal members or update existing registrations of tribal members if the tribal address is more recent than the address on file with the secretary of state for that tribal member. The tribal council may supplement the tribal membership list at any time. Ninety days prior to each general election, the secretary of state must invite, in writing, the tribal council to supplement the tribal membership list, and the tribal council may update the list at its discretion. The tribal membership list may only be used for election-related purposes.

(4) Upon receiving an electronic record for an individual who provides documentation that confirms the individual's citizenship and contains the minimum information to register the individual to vote, the secretary of state shall provide the information to the county clerk and recorder of the county in which the individual resides. Upon receipt of a record, the county clerk and recorder shall determine if the record is complete for the purposes of voter registration or preregistration.

(5) If the record is complete for purposes of voter registration or preregistration, the county clerk and recorder shall send to the individual's address of record, by nonforwardable mail:

(a) If the record is for an eligible elector, notice that the elector has been registered to vote and a postage paid pre-addressed return form by which the elector may:

(I) Decline to be registered as an elector; or

(II) Affiliate with a political party; and

(b) If the record is for an individual eligible to preregister under section 1-2-101 (2), notice that the individual has been preregistered and will be automatically registered upon turning eighteen years of age, and a postage paid pre-addressed return form by which the individual may:

(I) Decline to be preregistered; or

(II) Affiliate with a political party.

(6) If the record is not complete, the county clerk and recorder shall send to the individual's address of record, by nonforwardable mail, notice that the individual has not been registered or preregistered to vote and stating the additional information required to register or preregister. If the individual provides the additional information, the individual is registered or preregistered to vote effective as of the date that the county used the list provided by the secretary of the tribal council to register the individual to vote. If the individual does not provide the additional information necessary to make the individual's application complete and accurate within twenty-four months after the notification is mailed pursuant to this subsection (6), the individual's registration is canceled.

(7) A notice mailed pursuant to subsection (5) of this section must include an explanation in English of the eligibility requirements to register or preregister to vote, and a statement that, if the individual is not eligible, the individual should decline to register using the pre-addressed return form.

(8) The notice provided pursuant to subsection (5) of this section must include a statement that, if an individual declines to register or preregister to vote, the declination will remain confidential and will be used only for voter registration statistics purposes, and a statement that, if an individual remains registered or preregistered to vote, the office at which the individual was registered or preregistered will remain confidential and will be used only for voter registration statistics purposes.

(9) (a) (I) If a notice provided under subsections (5) and (6) of this section is returned as undeliverable within twenty days after the county clerk and recorder mails the notice, the individual's registration or preregistration is canceled and the individual is deemed to have never registered or preregistered. If the notice is returned as undeliverable after twenty days after the county clerk and recorder mails the notice, the individual's registration or preregistration is marked inactive.

(II) Notwithstanding subsection (9)(a)(I) of this section, if an individual votes in an election after the transfer of the individual's record but before the notice is returned as undeliverable, the individual's registration shall not be canceled or marked inactive.

(b) If a notice provided pursuant to subsection (5) of this section is not returned within twenty days, the individual is registered or preregistered as of the date that the county used the list provided by the secretary of the tribal council to register the individual to vote and the individual shall be marked as unaffiliated.

(c) If an individual returns the form provided pursuant to subsection (5) of this section and declines to be registered or preregistered, including if the individual returns the form and both declines to be registered or preregistered and also affiliates with a party, the individual's registration or preregistration is canceled and the individual is deemed to have never registered or preregistered; except that, if the individual has voted in an election, the return form is of no

effect and the individual remains registered as of the date that the county used the list provided by the secretary of the tribal council to register the individual to vote.

(d) If an individual returns the form provided under subsection (5) of this section and affiliates with a party, the individual is registered or preregistered as of the date that the county used the list provided by the secretary of the tribal council to register the individual to vote and the individual's affiliation shall be marked effective as of the date the affiliation information was received.

(e) If an individual returns the form without marking either the option to decline or the option to affiliate with a party, the returned form is of no effect. The individual is registered or preregistered as of the date that the county used the list provided by the secretary of the tribal council to register the individual to vote and shall be marked as unaffiliated.

(10) After the twenty-day period described in subsection (9) of this section passes, the registration information of an individual registered pursuant to this section becomes a registration record that must be maintained and made available for public inspection in accordance with section 1-2-227. Information relating to the return of a notice form by an individual declining to be registered or preregistered is not a public record subject to public inspection and shall not be used for any purpose other than voter registration statistics.

(11) This section does not preclude the state from complying with its obligations under the federal "National Voter Registration Act of 1993", 52 U.S.C. sec. 20501 et seq., as amended; the federal "Voting Rights Act of 1965", 52 U.S.C. sec. 10101 et seq., as amended; the federal "Help America Vote Act of 2002", 52 U.S.C. sec. 20901 et seq., as amended; or any other applicable federal laws.

Source: L. 92: Entire article R&RE, p. 640, § 2, effective January 1, 1993. **L. 93:** Entire section amended, p. 1398, § 15, effective July 1. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 568, § 9, effective May 18. **L. 2019:** Entire section amended, (HB 19-1278), ch. 326, p. 3006, § 5, effective August 2. **L. 2023:** (1) amended and (3), (4), (5), (6), (7), (8), (9), (10), and (11) added (SB 23-276), ch. 399, p. 2372, § 3, effective June 6.

Editor's note: This section is similar to former § 1-2-202.5 as it existed prior to 1992.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Annotator's note. The following annotations are taken from a case decided under former provisions similar to this section.

Provisions not mandatory. To treat all of the provisions of this statute as mandatory so as to deprive those who attempt to register would provide an unequal application of the statute and an inconsistency not warranted by any express language in the enactment. Meyer v. Putnam, 186 Colo. 132, 526 P.2d 139 (1974).

Obtaining social security numbers from vast majority of voters is only directory. Meyer v. Putnam, 186 Colo. 132, 526 P.2d 139 (1974).

1-2-204. Questions answered by elector - rules.

(1) Repealed.

(2) In addition, each elector shall correctly answer the following:

(a) The elector's name in full;

(b) The elector's place of residence, including municipal address with street number or, if there is no street number, by legal description of the land upon which the residence sits, including lot, block, addition, division, or subdivision, as applicable. In all other cases, the residence shall be described by the section or subdivision in the township and range as established and numbered by the United States government survey. If the place of residence is an apartment house, rooming house, dormitory, hotel, or motel, the number of the floor and the number of the apartment or room shall also be given. Except as allowed by section 1-2-102 (1)(a), no vacant lot or business address shall be considered a residence. A post office box number shall not be used as a place of residence for the purposes of this subsection (2).

(c) Whether the elector is a citizen of the United States;

(d) The elector's gender identity, if the elector wishes to state it;

(e) The elector's date of birth;

(f) The elector's deliverable mailing address if different from the elector's address of record;

(f.3) The address where the elector wishes to receive his or her ballot if different from the address of record;

(f.5) The elector's current and valid Colorado driver's license number, the number of the current and valid identification card issued to the elector in accordance with part 3 of article 2 of title 42, or the last four digits of the elector's social security number. If the elector does not have a social security number or a current and valid Colorado driver's license or identification card,

the elector shall answer that he or she does not have a social security number or a current and valid Colorado driver's license or identification card.

(g) Repealed.

(h) Whether or not the elector is registered to vote in another county of this state;

(i) Whether or not the elector was registered to vote in another state;

(j) The elector's affiliation, if any, if the eligible elector desires to affiliate with any political party or political organization. If this question is not answered, the elector shall be registered as "unaffiliated". Only the eligible elector personally shall declare the eligible elector's affiliation.

(j.5) and (k) Repealed.

(l) The question "Do you affirm that you meet the voter registration qualifications and that the information you have provided in this application is true to the best of your knowledge and belief?".

(2.5) If an applicant for voter registration has not been issued a current and valid Colorado driver's license, a current and valid identification card issued by the department of revenue in accordance with the requirements of part 3 of article 2 of title 42, C.R.S., or a social security number, the secretary of state shall assign the applicant a number that will serve to identify the applicant for voter registration purposes. Insofar as the department of state has created a computerized statewide voter registration list in accordance with the requirements of part 3 of this article and the list assigns unique identifying numbers to registrants, the number assigned under this subsection (2.5) shall be the unique identifying number assigned under the list.

(2.7) The form used for registration of electors shall contain a statement that the applicant must comply with the requirements of paragraph (f.5) of subsection (2) of this section, that an applicant who is qualified to vote in this state but does not have a driver's license, state-issued identification card, or social security number may still register to vote, and that the secretary of state will assign an identifying number to such an applicant for voter registration purposes.

(3) (a) If the county clerk and recorder has reasonable cause to believe that an applicant has falsified any answers to the questions set forth in this section, the county clerk and recorder shall certify the same to the district attorney for investigation and appropriate action.

(b) If the elector states that the elector's present address is the elector's sole legal residence and that the elector claims no other place as the elector's legal residence and if the elector meets the qualifications of section 1-2-101, the county clerk and recorder shall proceed to register the elector.

(c) If the elector does not comply with the requirements of subsections (1) and (2) of this section, the county clerk and recorder shall not register the elector.

(4) (a) If the registration record of a registered elector does not contain the last four digits of the elector's social security number, the county clerk and recorder shall request the elector to provide the last four digits of the elector's social security number. The request may be made of the registered elector by the county clerk and recorder:

(I) In any written communication by mail from the county clerk and recorder to the registered elector;

(II) At any voter service and polling center in the registered elector's county;

(III) Repealed.

(IV) In materials to be returned by the registered elector with a mail ballot.

(b) No registered elector shall be prohibited from voting at any election for failure to provide the last four digits of the elector's social security number or the elector's full social security number.

(c) Any social security number or the last four digits of a social security number of an elector that is obtained by the county clerk and recorder from such elector pursuant to this section shall be held confidential and shall not be published or be open to or available for public inspection. The county clerk and recorder shall develop appropriate security measures to ensure the confidentiality of such numbers.

(d) The last four digits of a social security number described in this section shall not be considered a social security number for purposes of section 7 of the federal "Privacy Act of 1974", Pub.L. 93-579.

(4.5) This section does not apply to a covered voter, as defined in section 1-8.3-102, who is registering to vote pursuant to section 1-8.3-107.

(5) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to determine the identity of a resident of a group residential facility, as defined in section 1-1-104 (18.5), and any rules necessary to ensure the consistent application of such identification rules.

Source: L. 92: Entire article R&RE, p. 641, § 2, effective January 1, 1993. **L. 93:** (2)(j) amended, p. 1398, § 16, effective July 1. **L. 94:** (1)(d) amended, p. 1753, § 9, effective January 1, 1995. **L. 95:** (2)(f) amended, p. 822, § 8, effective July 1. **L. 97:** (2)(i) amended, p. 472, § 4, effective July 1. **L. 98:** (2)(f.5) and (4) added and (2)(g) amended, p. 279, §§1, 2, effective April 14. **L. 99:** (2)(f) amended and (2)(k) added, p. 279, § 3, effective August 4; (2)(j) amended, p. 158, § 2, effective August 4. **L. 2003:** (2)(f.5) amended and (2.5) added, p. 2072, § 8, effective May 22. **L. 2004:** (2)(c), (2)(d), and (2)(f.5) amended, p. 426, § 2, effective April 13; (2)(f.5), IP(4)(a), (4)(a)(I), and (4)(b) amended and (4)(d) added, p. 1051, § 2, effective May 21. **L. 2006:**

(2)(f.5) amended and (2.7) and (3)(c) added, pp. 2028, 2029, §§ 1, 2, effective June 6. **L. 2007:** (4)(a)(IV) amended, p. 1775, § 2, effective June 1; (2)(f.5) amended, p. 1968, § 4, effective August 3. **L. 2009:** (5) added, (HB 09-1336), ch. 261, p. 1198, § 5, effective August 5. **L. 2012:** (2)(d) amended, (HB 12-1292), ch. 181, p. 677, § 3, effective May 17. **L. 2013:** (2)(g) and (4)(a)(III) repealed, (2)(k), IP(4)(a), (4)(a)(II), and (4)(a)(IV) amended, and (2)(l) added, (HB 13-1303), ch. 185, p. 690, § 11, effective May 10. **L. 2016:** (1) repealed, IP(2) and (2)(d) amended, and (4.5) added, (SB 16-142), ch. 173, p. 568, § 10, effective May 18. **L. 2017:** (2)(j.5) added, (SB 17-305), ch. 216, p. 841, § 1, effective August 9. **L. 2018:** (2)(f.3) added, (2)(i) amended, and (2)(k) repealed, (SB 18-233), ch. 262, p. 1604, § 4, effective May 29. **L. 2019:** (2)(f.5) amended, (HB 19-1278), ch. 326, p. 3006, § 6, effective August 2. **L. 2022:** (2)(b) amended, (SB 22-152), ch. 100, p. 477, § 2, effective April 13. **L. 2023:** (2)(j.5) repealed, (SB 23-276), ch. 399, p. 2375, § 4, effective June 6.

Editor's note: This section is similar to former § 1-2-203 as it existed prior to 1992.

Cross references: (1) In 2013, subsections (2)(g) and (4)(a)(III) were repealed, subsection (2)(k), the introductory portion to subsection (4)(a), and subsections (4)(a)(II) and (4)(a)(IV) were amended, and subsection (2)(l) was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Provisions not mandatory. To treat all of the provisions of this statute as mandatory so as to deprive those who attempt to register would provide an unequal application of the statute and an inconsistency not warranted by any express language in the enactment. Meyer v. Putnam, 186 Colo. 132, 526 P.2d 139 (1974).

Obtaining social security numbers from vast majority of voters is only directory. Meyer v. Putnam, 186 Colo. 132, 526 P.2d 139 (1974).

Supporters of minor parties must be allowed to designate that support on voter registration forms. The refusal to permit such designation unnecessarily burdens the opportunity of the citizen and his party to promote their minority interests. Baer v. Meyer, 577 F. Supp. 838 (D. Colo. 1984),

aff'd in part, rev'd in part on other grounds, 728 F.2d 471 (10th Cir. 1984).

But party designation need only be permitted if a political organization already exists in the state under its name, has recognized officials, and has previously placed a candidate on the ballot by petition. Baer v. Meyer, 728 F.2d 471 (10th Cir. 1984).

1-2-205. Self-affirmation made by elector.

(1) The registration record to be signed by the elector shall bear the following statement:

WARNING:

IT IS A CLASS 1 MISDEMEANOR:

To swear or affirm falsely as to your qualifications to register to vote.

(2) Each elector making application for registration or preregistration shall make the following self-affirmation: "I, ..., affirm that I am a citizen of the United States; I have been a resident of Colorado for at least twenty-two days immediately before an election I intend to vote in; I am at least fifteen years old; and I understand that I must be at least eighteen to be eligible to vote in any election. I further affirm that the residence address I provided is my sole legal place of residence. I certify under penalty of perjury that the information I have provided on this application is true to the best of my knowledge and belief; and that I have not, nor will I, cast more than one ballot in any election.".

(3) (Deleted by amendment, L. 94, p. 1754, § 10, effective January 1, 1995.)

(4) The elector shall sign the registration record as evidence of the affirmation made by the elector.

(5) This section does not apply to a person registered in accordance with section 1-2-213.3 or 1-2-502.5.

Source: L. 92: Entire article R&RE, p. 643, § 2, effective January 1, 1993. **L. 94:** (2), (3), and (4) amended, p. 1754, § 10, effective January 1, 1995. **L. 2013:** (1) and (2) amended, (HB 13-1303), ch. 185, p. 691, § 12, effective May 10; (2) amended, (HB 13-1135), ch. 184, p. 678, § 3, effective August 7; (2) amended, (HB 13-1303), ch. 185, p. 691, § 12, effective August 7. **L. 2014:** (2) amended, (SB 14-161), ch. 160, p. 557, § 5, effective May 9. **L. 2018:** (2) amended,

(SB 18-150), ch. 261, p. 1600, § 2, effective July 1, 2019. **L. 2019:** (2) amended and (5) added, (SB 19-235), ch. 329, p. 3056, § 9, effective August 2; (2) amended, (HB 19-1278), ch. 326, p. 3007, § 7, effective August 2. **L. 2023:** (2) amended (SB 23-276), ch. 399, p. 2375, § 5, effective June 6. **L. 2024:** (2) amended, (SB 24-210), ch. 468, p. 3242, § 4, effective January 1, 2025.

Editor's note: (1) This section is similar to former § 1-2-204 as it existed prior to 1992.

(2) Amendments to subsection (2) by HB 19-1278 and SB 19-235 were harmonized.

Cross references: (1) For procuring false registration, see § 1-13-203.

(2) In 2013, subsections (1) and (2) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-2-206. Declaration of party affiliation. (Repealed)

Source: L. 92: Entire article R&RE, p. 643, § 2, effective January 1, 1993. **L. 94:** (2) amended, p. 1152, § 7, effective July 1. **L. 96:** (2) repealed, p. 1736, § 12, effective July 1. **L. 99:** Entire section repealed, p. 165, § 28, effective August 4.

1-2-207. Affidavit registration. (Repealed)

Source: L. 92: Entire article R&RE, p. 644, § 2, effective January 1, 1993. **L. 94:** Entire section repealed, p. 1754, §§ 11, 48, effective January 1, 1995.

1-2-208. Registration by federal postcard application - definitions. (Repealed)

Source: L. 92: Entire article R&RE, p. 644, § 2, effective January 1, 1993. **L. 94:** (1) amended, p. 1755, § 12, effective January 1, 1995. **L. 95:** (1) amended, p. 822, § 9, effective July

1. **L. 99:** (1) amended, p. 757, § 6, effective May 20. **L. 2003:** (1), (2), and (3) amended and (2.5) added, p. 1332, § 1, effective August 6. **L. 2011:** Entire section repealed, (HB 11-1219), ch. 176, p. 673, § 5, effective May 13.

1-2-209. Registration of citizens who reside outside the United States - federal law. (Repealed)

Source: L. 92: Entire article R&RE, p. 645, § 2, effective January 1, 1993. **L. 94:** (2) amended, p. 1755, § 13, effective January 1, 1995. **L. 95:** (2) amended, p. 822, § 10, effective July 1. **L. 97:** (3) amended, p. 475, § 15, effective July 1. **L. 99:** (2) amended, p. 758, § 7, effective May 20. **L. 2003:** IP(1) and (3) amended, p. 1333, § 2, effective August 6. **L. 2007:** (3) amended, p. 1776, § 3, effective June 1; (1.5) added, p. 1041, § 1, effective August 3. **L. 2011:** Entire section repealed, (HB 11-1219), ch. 176, p. 673, § 5, effective May 13.

1-2-209.5. Absent uniformed services and overseas electors - simultaneous voter registration and absentee ballot application - designated office - cooperation with military units. (Repealed)

Source: L. 2003: Entire section added, p. 1334, § 3, effective August 6. **L. 2007:** (1) amended, p. 1776, § 4, effective June 1; (2)(b) amended, p. 1041, § 2, effective August 3. **L. 2011:** Entire section repealed, (HB 11-1219), ch. 176, p. 673, § 5, effective May 13.

1-2-210. Registration for congressional vacancy elections.

Except as otherwise provided in section 1-4-401.5, in any congressional vacancy election, the time and method of registration and performance of other acts shall be as provided in this part 2 for general elections. In every other respect, the election shall be held in conformity with this part 2 as far as practicable. Any congressional vacancy election shall be called in sufficient time before the date of the election to permit the county clerk and recorder to comply with the provisions of this part 2.

Source: L. 92: Entire article R&RE, p. 646, § 2, effective January 1, 1993. **L. 2008:** Entire section amended, p. 409, § 1, effective August 5.

Editor's note: This section is similar to former § 1-2-211 as it existed prior to 1992.

1-2-210.5. Registration of and voting by persons in custody of division of youth services - definitions.

(1) In the case of any individual committed to a juvenile facility and in the custody of the division of youth services in the department of human services created in section 19-2.5-1501 (1) who is eighteen years of age or older on the date of the next election, the administrator of the facility in which the individual is committed shall facilitate the registration for voting purposes of, and voting by, the individual. In connection with this requirement, the administrator shall provide the individual information regarding the individual's voting rights and how the individual may register to vote and cast a mail ballot, provide the individual with voter information materials upon the request of the individual, and ensure that any mail ballot cast by the individual is timely delivered to the designated election official.

(2) The administrator and the secretary of state shall post the type or kind of verification satisfying the requirements of section 1-1-104 (19.5)(d) in a prominent place on the public websites maintained by the department of human services and the secretary, respectively. The secretary shall provide notice to the county clerk and recorders as well as other designated election officials throughout the state that such verification constitutes an acceptable form of identification under section 1-1-104 (19.5) permitting the individuals possessing such identification to register to vote and cast a ballot.

(3) Notwithstanding any other provision of law, an administrator is exempt from any restriction under law on the number of mail or mail-in ballots an eligible elector may deliver in person to the designated election official.

(4) The administrator shall forward applications made under this section on a weekly basis, or on a daily basis during the last week allowed for registration prior to any election, to the county clerk and recorder of the county in which the facility is located, and, if the applicant resides in a different county from the facility, the application must then be forwarded to the county clerk and recorder of the county in which the applicant resides.

(5) As used in this section:

(a) "Administrator" means the administrator, or the administrator's designee, of the division of youth services created in section 19-2.5-1501 (1), a residential facility operated by the division of youth services, or a residential facility that contracts with the division of youth services in which a person committed to the department of human services is confined and eligible to register to vote and cast a ballot.

(b) (I) "Voter information materials" means the following documents, as applicable to the election for which the individual seeks to register to vote and cast a ballot:

(A) Any forms used to register an elector under this part 2;

(B) An application for a mail ballot pursuant to section 1-13.5-1002;

(C) A copy of a ballot information booklet described in section 1-40-124.5; and

(D) Any mailings to electors that are described in section 1-40-125.

(II) Upon an administrator's written request to the legislative council staff or a county clerk and recorder for copies of the documents specified in sub-subparagraph (C) or (D) of subparagraph (I) of this paragraph (b), the legislative council staff or county clerk and recorder, as applicable, shall timely provide copies of the documents to the administrator in a sufficient number to cover the number of individuals who are authorized to register and vote under this section and who are either residing in the administrator's facility or under the supervision of the administrator's program.

Source: L. 2013: Entire section added, (HB 13-1038), ch. 28, p. 67, § 2, effective March 15. **L. 2014:** (1) and (5)(b)(I)(B) amended, (HB 14-1164), ch. 2, p. 71, § 34, effective February 18. **L. 2017:** (1) and (5)(a) amended, (HB 17-1329), ch. 381, p. 1968, § 11, effective June 6. **L. 2021:** (1) and (5)(a) amended, (SB 21-059), ch. 136, p. 707, § 3, effective October 1.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

1-2-211. Establishment and conduct of branch registration sites. (Repealed)

Source: L. 92: Entire article R&RE, p. 647, § 2, effective January 1, 1993. **L. 94:** Entire section repealed, p. 1755, § 14, effective January 1, 1995.

1-2-212. Mobile registration sites - definitions - establishment and conduct. (Repealed)

Source: L. 92: Entire article R&RE, p. 648, § 2, effective January 1, 1993. **L. 94:** (2)(a) and (2)(b) amended, p. 1756, § 15, effective January 1, 1995. **L. 95:** (2)(b) amended, p. 823, § 11, effective July 1. **L. 97:** Entire section repealed, p. 472, § 5, effective July 1.

1-2-213. Registration at driver's license examination facilities.

(1) The department of revenue, through its local driver's license examination facilities, shall provide each eligible elector who applies for the issuance, renewal, or correction of any type of driver's license or for an identification card pursuant to part 3 of article 2 of title 42, C.R.S., an opportunity to complete an application to register to vote, which application provides the information required under this part 2.

(2) (a) An applicant who wishes to complete an application for registration must provide the information required by section 1-2-204 with the exception of the information required by section 1-2-204 (2)(f.3). The applicant shall also sign the self-affirmation required by section 1-2-205.

(b) The application for registration shall not require any information that duplicates information required in the driver's license portion of the form other than a second signature or other information necessary to assure that the applicant meets the eligibility requirements for registration. The application may require only the minimum amount of information necessary to prevent duplicate voter registrations and enable the county clerk and recorder to assess the eligibility of the applicant and to administer voter registration and other parts of the election process.

(c) The application shall include a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration statistics purposes, and a statement that, if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration statistics purposes.

(d) Applications and changes must be forwarded on a weekly basis, or on a daily basis during the last week prior to any election conducted by the county clerk and recorder, to the county clerk and recorder of the county in which the applicant resides.

(e) The department of revenue, through its local driver's license examination facilities, shall notify a program participant, as defined in section 24-30-2103 (9), C.R.S., who submits a current and valid address confidentiality program authorization card of the provisions of section 24-30-2108 (4), C.R.S., and inform the participant about how he or she may use a substitute address, as defined in section 24-30-2103 (14), C.R.S., on the driver's license or identification card.

(3) Upon receipt of an application, the county clerk and recorder shall determine if the application is complete. If the application is complete, the applicant shall be deemed registered as of the date of application. If the application is not complete, the county clerk and recorder shall notify the applicant, stating the additional information required. The applicant shall be deemed registered as of the date of application if the additional information is provided at any time prior to the actual voting.

(4) (Deleted by amendment, L. 94, p. 1756, § 16, effective January 1, 1995.)

(5) The department of revenue and the secretary of state shall jointly develop an application form or process, and a change of name and address form or process, that allows an applicant wishing to register to vote to do so without duplicating any information required for the issuance, renewal, or correction of the driver's license or identification card. Any such forms must be furnished to the local driver's license examination facilities by the department of revenue.

(6) (a) Any registered elector who informs a driver's license examination facility of a change of name or address must have notice of the change of name or address forwarded by the driver's license examination facility to the county clerk and recorder of the county in which the elector resides.

(b) The county clerk and recorder of the county in which the elector resides shall change the registration record of the elector to reflect the change of name and address, mark the registration record as "active", and send to the elector's address of record, by forwardable mail, notice of the change and a postage paid pre-addressed return form by which the elector may verify or correct the information.

(c) If the elector returns the form described in subsection (6)(b) of this section and indicates that the change was in error, the appropriate county clerk and recorder shall immediately correct the elector's previously updated information in the statewide voter registration database.

(7) No information relating to the failure of an applicant for a driver's license to sign a voter registration application may be used for any purpose other than voter registration statistics.

Source: L. 92: Entire article R&RE, p. 648, § 2, effective January 1, 1993. **L. 93:** (1) and (2) amended, p. 1398, § 17, effective July 1. **L. 94:** (1) amended, p. 2542, § 7, effective January 1, 1995; (2), (4), and (6) amended and (7) added, p. 1756, § 16, effective January 1, 1995. **L. 96:** (2)(c), (2)(d), and (7) amended, p. 1736, § 13, effective July 1. **L. 97:** (2)(d) amended, p. 472, § 6, effective July 1. **L. 2004:** (5) amended, p. 191, § 1, effective August 4. **L. 2007:** (2)(e) added, p. 1699, § 1, effective July 1. **L. 2010:** (1) amended, (HB 10-1116), ch. 194, p. 829, § 2, effective May 5. **L. 2011:** (2)(e) amended, (HB 11-1080), ch. 256, p. 1123, § 4, effective June 2. **L. 2013:** (2)(e) amended, (HB 13-1300), ch. 316, p. 1661, § 1, effective August 7; (2)(a) amended, (HB 13-1135), ch. 184, p. 678, § 4, effective January 1, 2014. **L. 2016:** (1), (2)(a), (2)(d), (5), and (6) amended, (SB 16-142), ch. 173, p. 569, § 11, effective May 18. **L. 2018:** (2)(a) and (6) amended, (SB 18-233), ch. 262, p. 1604, § 5, effective May 29.

Editor's note: This section is similar to former § 1-2-212.5 as it existed prior to 1992.

1-2-213.3. Transfer of new voter registration records from department of revenue.

(1) (a) In addition to the requirements of section 1-2-213 for registered electors, the department of revenue shall provide to the secretary of state, on a schedule established by the secretary of state, electronic records containing the full name, date of birth, residence address, deliverable mailing address if different from the residence address, county of residence, citizenship information for, and an electronic copy of the signature of each unregistered elector and each person eligible to preregister in accordance with section 1-2-101 (2) who provides a document that demonstrates United States citizenship and who applies for the issuance, renewal, or correction of any type of driver's license or identification card pursuant to part 3 of article 2 of title 42; except that the department of state shall not use the record of an individual who applies for or renews an identification document under part 5 of article 2 of title 42 or the record of a person who is a program participant in the "Address Confidentiality Program Act", part 21 of article 30 of title 24, for voter registration purposes.

(b) The department of revenue shall continue to offer any person not registered to vote pursuant to subsection (2) of this section an opportunity to register to vote pursuant to section 1-2-213, unless they have provided documentation demonstrating a lack of United States citizenship.

(2) Upon receiving an electronic record for an individual who provided documentation that confirmed his or her citizenship and contains the minimum information to register the individual to vote, the secretary of state shall provide the information to the county clerk and recorder of the county in which the person resides. Upon receipt of a record, the county clerk and recorder shall determine if the record is complete for the purposes of voter registration.

(3) If the record is complete for purposes of voter registration or preregistration, the county clerk and recorder shall send to the person's address of record, by nonforwardable mail:

(a) If the record is for an eligible elector, notice that the elector has been registered to vote and a postage paid pre-addressed return form by which the elector may:

(I) Decline to be registered as an elector; or

(II) Affiliate with a political party; and

(b) If the record is for a person eligible to preregister under section 1-2-101 (2), notice that the person has been preregistered and will be automatically registered upon turning eighteen years of age, and a postage paid preaddressed return form by which the person may:

(I) Decline to be preregistered; or

(II) Affiliate with a political party.

(4) If the record is not complete, the county clerk and recorder shall send to the person's address of record, by nonforwardable mail, notice that the person has not been registered or

preregistered to vote and stating the additional information required to register or preregister. If the person provides the additional information, the person is registered or preregistered to vote effective as of the date of the person's application with the department of revenue. If the person does not provide the additional information necessary to make his or her application complete and accurate within twenty-four months after the notification is mailed pursuant to this subsection (4), the person's registration is canceled.

(5) A notice mailed under subsection (3) of this section must include an explanation, in both English and Spanish, of the eligibility requirements to register or preregister to vote, and a statement that, if the person is not eligible, the person should decline to register using the preaddressed return form.

(6) The notice provided under subsection (3) of this section must include a statement that, if the person declines to register or preregister to vote, the fact that the person has declined will remain confidential and will be used only for voter registration statistics purposes, and a statement that, if a person remains registered or preregistered to vote, the office at which the person was registered or preregistered will remain confidential and will be used only for voter registration statistics purposes.

(7) (a) (I) If a notice provided under subsections (3) and (4) of this section is returned as undeliverable within twenty days after the county clerk and recorder mails the notice, the person's registration or preregistration is canceled and the person is deemed to have never registered or preregistered. If the notice is returned as undeliverable after twenty days after the county clerk and recorder mails the notice, the person's registration or preregistration is marked inactive.

(II) Notwithstanding subsection (7)(a)(I) of this section, if a person votes in an election after the transfer of the person's record but before the notice is returned as undeliverable, the person's registration shall not be canceled or marked inactive.

(b) If a notice provided under subsection (3) of this section is not returned within twenty days, the person is registered or preregistered as of the date of the person's application at the department of revenue and the person shall be marked as unaffiliated.

(c) If a person returns the form provided under subsection (3) of this section and declines to be registered or preregistered, including if the person returns the form and both declines to be registered or preregistered and also affiliates with a party, the person's registration or preregistration is canceled and the person is deemed to have never registered or preregistered; except that, if the person has voted in an election, the return form is of no effect and the person remains registered as of the date of the person's application with the department of revenue.

(d) If a person returns the form provided under subsection (3) of this section and affiliates with a party, the person is registered or preregistered as of the date of the person's application

with the department of revenue and the person's affiliation shall be marked effective as of the date the affiliation information was received.

(e) If a person returns the form without marking either the option to decline or the option to affiliate with a party, the returned form is of no effect. The person is registered or preregistered as of the date of the person's application with the department of revenue and shall be marked as unaffiliated.

(8) After the twenty-day period described in subsection (7) of this section passes, the registration information of a person registered pursuant to this section, including the fact that the person was registered through a voter registration agency, becomes a registration record that must be maintained and made available for public inspection in accordance with section 1-2-227. Information relating to the return of a notice form by a person declining to be registered or preregistered and information relating to the specific agency at which a person was registered pursuant to this section is not a public record subject to public inspection and shall not be used for any purpose other than voter registration statistics.

(9) This section does not preclude the state from complying with its obligations under the federal "National Voter Registration Act of 1993", 52 U.S.C. sec. 20501 et seq., as amended; the federal "Voting Rights Act of 1965", 52 U.S.C. sec. 10101 et seq., as amended; the federal "Help America Vote Act of 2002", 52 U.S.C. sec. 20901 et seq., as amended; or any other applicable federal laws.

Source: L. 2019: Entire section added, (SB 19-235), ch. 329, p. 3048, § 1, effective July 1, 2020. **L. 2020:** (7)(a)(I) amended, (HB 20-1402), ch. 216, p. 1040, § 1, effective June 30. **L. 2021:** (8) amended, (SB 21-250), ch. 282, p. 1633, § 5, effective June 21.

1-2-213.5. Institutions of higher education - electronic voter registration option - information to students - rules.

(1) (a) An institution of higher education that uses an electronic course registration process shall provide to each student registering electronically for courses at the institution the opportunity to register to vote by giving each student the option to be electronically directed to the official website of the secretary of state so the student may register in accordance with section 1-2-202.5. The option shall be provided to students either during or immediately following the electronic registration period for each term or semester.

(b) Each institution of higher education subject to subsection (1)(a) of this section shall implement the electronic voter registration option as soon as practicable, but not later than the next regularly scheduled maintenance to its electronic course registration system process.

(c) Each institution of higher education subject to subsection (1)(a) of this section shall, during the first full week of each fall semester and during the last full week of each spring semester, provide by email to each enrolled student information on voter eligibility and on how to register to vote or update their voter registration information in the statewide voter registration database.

(d) Each institution of higher education subject to subsection (1)(a) of this section shall, on both the fifteenth day and the final day prior to each election day, provide by email to each enrolled student the following information:

(I) The location and hours of operation of each campus voter service and polling center, including the building name and address, and the requirement to bring identification to vote; and

(II) Each drop-off location on campus, the requirement for identification for certain mail ballots, and how to access mail on campus.

(e) Each institution of higher education subject to subsection (1)(a) of this section may include in the email required by subsection (1)(d) of this section information created and made available by the secretary of state concerning:

(I) Voter eligibility, including residency requirements and nonresident student eligibility to vote in elections in the state; and

(II) How to register to vote or update voter information in the statewide voter registration database, the last day to register to vote online and receive a ballot in the mail prior to an election, and options for registering in person on or before election day.

(2) An institution of higher education that does not use an electronic course registration process shall provide to students information in accordance with subsections (1)(c) and (1)(d) of this section, including, at a minimum, prominently posting such information in a clearly visible area of the institution's registrar's office. Such an institution of higher education may also provide to students information in accordance with subsection (1)(e) of this section, including by prominently posting such information in a clearly visible area of the campus.

(3) (a) The secretary of state shall adopt rules specifying the form and required content for the information required by subsections (1)(c), (1)(d), (1)(e), and (2) of this section.

(b) Prior to sending an email required by subsection (1)(c) or (1)(d) of this section or posting a sign pursuant to subsection (2) of this section, an institution of higher education shall provide the election-specific content of the email or sign to the county clerk and recorder for the county in which the institution of higher education is located.

Source: L. 2013: Entire section added, (HB 13-1147), ch. 122, p. 413, § 1, effective August 7. **L. 2021:** (1)(c) added, (SB 21-250), ch. 282, p. 1633, § 6, effective June 21. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1484, § 5, effective June 1.

1-2-214. Withdrawal of registration. (Repealed)

Source: L. 92: Entire article R&RE, p. 650, § 2, effective January 1, 1993. **L. 97:** Entire section repealed, p. 478, § 23, effective July 1.

Editor's note: This section was relocated to § 1-2-601 in 1997.

1-2-215. Certificate of registration.

Upon the request of any eligible elector, including requests made at the time of a regular biennial or special school election, special district election, or municipal election, the county clerk and recorder shall make and deliver to the elector a certificate of registration for the elector, setting forth the facts of the elector's registration, including the date, description, and other information recorded in connection with the registration, which certificate shall be attested by the signature of the county clerk and recorder and the seal of the county.

Source: L. 92: Entire article R&RE, p. 650, § 2, effective January 1, 1993.

Editor's note: This section is similar to former § 1-2-214 as it existed prior to 1992.

1-2-216. Change of address.

(1) Any eligible elector who has moved within the state may have his or her residence changed on the registration record by submitting a letter or form furnished by the county clerk and recorder, either by mail, in person, or through the online voter registration system established pursuant to section 1-2-202.5. The letter or form for the change must include the elector's new residence address, mailing address if different from the residence address, old address, printed name, birth date, last four digits of the elector's social security number, if the elector wishes to state them, and signature and the date.

(2) Any address change made on the same form or personal letter as a change or withdrawal of affiliation or name change shall be accepted by the county clerk and recorder if the form or personal letter is signed indicating that the elector intended to make the change or withdrawal indicated on the form or in the personal letter.

(3) Any eligible elector who is unable to write may request assistance from the county clerk and recorder, and the county clerk and recorder shall sign the form, witnessing the elector's mark, or the elector may have his or her mark attested to by any other person on a prescribed form or personal letter, if the request is not made at the office of the county clerk and recorder.

(4) (a) Any eligible elector may complete a change of address form stating, under penalty of perjury, that the elector moved before the election and that, on the day of the election, the elector will be living at the new address in the new precinct. Such change of address forms must be submitted as follows:

(I) By appearing in-person at a voter service and polling center or clerk and recorder's office in the county in which the elector resides, at any time during which the voter service and polling center or office is open;

(II) By submitting, on or before the eighth day before an election, an electronic change of address form through the online voter registration system established pursuant to section 1-2-202.5; or

(III) By submitting by mail a change of address form that is received by the elector's county clerk and recorder no later than the close of business on the eighth day before any election.

(b) The election judges shall allow the registered elector to cast the ballot for their current residence.

(c) (Deleted by amendment, L. 2013.)

(5) Repealed.

Source: L. 92: Entire article R&RE, p. 651, § 2, effective January 1, 1993. **L. 93:** Entire section amended, p. 1399, § 18, effective July 1. **L. 94:** (1) amended, p. 1152, § 8, effective July 1; (1) and (4) amended, p. 1758, § 17, effective January 1, 1995. **L. 95:** (4) amended, p. 823, § 12, effective July 1. **L. 96:** (1) amended, p. 1736, § 14, effective July 1. **L. 97:** (4)(a) and (5) amended, p. 473, § 7, effective July 1. **L. 99:** (4)(a) amended, p. 758, § 8, effective May 20. **L. 2005:** (3) amended, p. 1395, § 7, effective June 6; (3) amended, p. 1430, § 7, effective June 6. **L. 2007:** (4)(c) amended, p. 1776, § 5, effective June 1. **L. 2009:** (1) amended, (HB 09-1216), ch. 165, p. 728, § 1, effective August 5; (4)(a) amended, (HB 09-1018), ch. 158, p. 682, § 1, effective August 5. **L. 2010:** (4)(a) amended, (HB 10-1116), ch. 194, p. 829, § 3, effective May

5. **L. 2012:** (4)(a) amended, (HB 12-1292), ch. 181, p. 677, § 4, effective May 17. **L. 2013:** (1) and (4) amended and (5) repealed, (HB 13-1303), ch. 185, p. 692, § 15, effective May 10.

Editor's note: (1) This section is similar to former § 1-2-215 as it existed prior to 1992.

(2) Amendments to subsection (1) by House Bill 94-1286 and House Bill 94-1294 were harmonized.

Cross references: In 2013, subsections (1) and (4) were amended and subsection (5) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-216.5. Verification of change of address. (Repealed)

Source: L. 94: Entire section added, p. 1759, § 18, effective January 1, 1995. **L. 95:** Entire section amended, p. 823, § 13, effective July 1. **L. 96:** (2) amended, p. 1737, § 15, effective July 1. **L. 2014:** Entire section repealed, (SB 14-161), ch. 160, p. 567, § 29, effective May 9.

1-2-217. Change in residence after close of registration. (Repealed)

Source: L. 92: Entire article R&RE, p. 651, § 2, effective January 1, 1993. **L. 93:** (1) amended, p. 1400, § 19, effective July 1. **L. 94:** (1) amended, p. 1760, § 19, effective January 1, 1995. **L. 95:** (1) amended, p. 824, § 14, effective July 1. **L. 96:** (2) amended, p. 1737, § 16, effective July 1. **L. 99:** (1) amended, p. 758, § 9, effective May 20. **L. 2007:** (1) amended, p. 1776, § 6, effective June 1. **L. 2010:** (2) amended, (HB 10-1116), ch. 194, p. 830, § 4, effective May 5. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-217.5. Change in residence before close of registration - emergency registration at office of county clerk and recorder. (Repealed)

Source: L. 94: Entire section added, p. 1759, § 18, effective January 1, 1995. **L. 95:** (2)(a) and (2)(b) amended and (5) added, p. 824, § 15, effective July 1. **L. 96:** (1)(b) amended, p. 1466, § 1, effective June 1; (2)(b) amended, p. 1737, § 17, effective July 1. **L. 2002:** (1)(a), (1)(c), IP(2), (3), (4), and (5) amended, p. 1625, § 1, effective June 7. **L. 2003:** IP(1), (1)(b), (1)(c), IP(2), (2)(a), and (5) amended, p. 986, § 1, effective April 17. **L. 2004:** (1)(a) and (1)(b) amended, p. 1052, § 3, effective May 21. **L. 2005:** (1)(a) and (2) amended, p. 1395, § 8, effective June 6; (1)(a) and (2) amended, p. 1430, § 8, effective June 6. **L. 2007:** (1)(b) and (2) amended, p. 1968, § 5, effective August 3. **L. 2009:** (2)(e) added, (HB 09-1205), ch. 383, p. 2078, § 1, effective August 5. **L. 2010:** (2)(a) repealed, (HB 10-1116), ch. 194, p. 830, § 5, effective May 5. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-217.7. Registration on or immediately prior to election day - locations - rules - legislative declaration.

(1) The general assembly hereby declares that the intent of this section is to remove barriers to participation in the political process and make voting and registration more convenient and accessible so all citizens who want to vote have the opportunity to exercise their right to vote by allowing such persons to register to vote up to and on election day.

(2) Notwithstanding any other provision of law, an elector who is not registered to vote in Colorado or who is registered to vote in Colorado but has moved within the state and needs to make a change of address may register or update his or her address immediately prior to and on election day in accordance with this section and rules adopted pursuant to this section. Upon so registering or updating his or her information, the elector is entitled to vote at any voter service and polling center in the county where the elector registered.

(3) **Timing.** Voter registration within the twenty-two days prior to an election must be conducted:

(a) (I) For general elections, from the fifteenth day prior to and including election day, at locations designated as voter service and polling centers by county clerk and recorders pursuant to section 1-5-102.9; or

(II) For all other elections conducted or coordinated by a county clerk and recorder or for which a county clerk and recorder is the designated election official, from the eighth day prior to and including election day, at locations designated as voter service and polling centers by county clerk and recorders pursuant to section 1-7.5-107;

(b) By county clerk and recorders, or their designees who have received such specific training or instruction as may be provided or prescribed by the secretary of state, at the offices of the county clerk and recorders at any time during which registration is permitted at such offices; and

(c) Through the eighth day prior to election day, via mail application, voter registration agency, local driver's license examination facility, or the online voter registration system established pursuant to section 1-2-202.5.

(3.5) Notwithstanding the deadlines specified in subsection (3) of this section, voter registration applications must be processed pursuant to section 1-2-508 (3).

(4) **Registration at voter service and polling centers.**

(a) An elector may register and vote prior to an election or on election day if the elector:

(I) Appears in person at a voter service and polling center in the county in which the elector resides at a time when that voter service and polling center is open;

(II) Completes and signs a voter registration application in the form prescribed by the secretary of state by rule, which application must include the questions contained in section 1-2-204 (2); and

(III) Completes and signs the self-affirmation specified in section 1-2-205.

(IV) Repealed.

(b) Repealed.

(5) **Change of residence at voter service and polling centers.** In accordance with section 1-2-216 (4), a registered elector who has moved within the state may update his or her residence by appearing at a voter service and polling center in the elector's county of residence when the voter service and polling center is open. The elector may then vote at the voter service and polling center where the elector updated his or her information.

(6) As soon as practicable, a county clerk and recorder shall access the statewide voter registration list maintained pursuant to section 1-2-301 (1) to add or update voter registration information when an elector registers or updates his or her information pursuant to this section. The secretary of state shall prescribe procedures to enable such additions or updates to be accomplished on an expedited basis.

(7) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to implement this section.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 693, § 16, effective May 10. **L. 2014:** (3)(a) and (3)(c) amended and (3.5) added, (SB 14-161), ch. 160, p. 557, § 6, effective May 9. **L. 2016:** (4)(a)(II) amended and (4)(b) repealed, (SB 16-142), ch. 173, p. 570, § 12, effective May 18. **L. 2021:** (4)(a)(II) and (4)(a)(III) amended and (4)(a)(IV) repealed, (SB 21-250), ch. 282, p. 1634, § 7, effective June 21.

Cross references: In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-218. Change of name.

(1) Any eligible elector who has been registered in the county and who subsequently has had a name change by any legal means may have his or her name changed in the statewide voter registration system by:

(a) Appearing before the county clerk and recorder or at a voter service and polling center at any time during which registration at those locations is permitted and submitting the change on forms prescribed by the secretary of state;

(b) Sending a personal letter received by the county clerk and recorder at any time during which registration is permitted; or

(c) Completing and submitting, on election day, to an election judge forms prescribed by the secretary of state.

(2) The prescribed form or personal letter for the change must include the elector's printed former legal name, printed present legal name, birth date, last four digits of the elector's social security number, if the elector wishes to state them, and signature of present legal name and the date. Prescribed forms shall be furnished by the county clerk and recorder upon oral or written request by the elector.

(3) A name change shall not be made by anyone other than the elector.

Source: L. 92: Entire article R&RE, p. 652, § 2, effective January 1, 1993. **L. 93:** Entire section amended, p. 1400, § 20, effective July 1. **L. 2013:** Entire section amended, (HB 13-

1303), ch. 185, p. 695, § 17, effective May 10. **L. 2016:** IP(1) amended, (SB 16-142), ch. 173, p. 570, § 13, effective May 18.

Editor's note: This section is similar to former § 1-2-216 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Annotator's note. The following annotations are taken from cases decided under former provisions similar to this section.

The pertinent sections concerning the transfer of party affiliation from one county to another are §§ 1-14-104 and 1-14-105 (now §§ 1-2-218 and 1-2-219). Murphey v. Trott, 160 Colo. 336, 417 P.2d 234 (1966).

And § 1-14-104 (now § 1-2-218) provides that unless the procedure of § 1-14-105 (now § 1-2-219) is followed, an elector moving from one county to another shall lose his party affiliation. Murphey v. Trott, 160 Colo. 336, 417 P.2d 234 (1966).

Provision of section constitutional. Provision in this section that a registered elector shall lose his party affiliation "by his failure to vote at any general election" is constitutional. Duprey v. Anderson, 184 Colo. 70, 518 P.2d 807 (1974).

1-2-218.5. Declaration of affiliation.

(1) The declaration of affiliation of each registered elector shall remain as recorded in the registration record until the elector changes or withdraws his or her affiliation.

(2) Any eligible elector who has not declared an affiliation with a political party or political organization must be designated on the registration records of the county clerk and recorder as "unaffiliated". Any unaffiliated eligible elector may, but is not required to, declare a political party affiliation when the elector desires to vote at a primary election, or the elector may declare his or her political party or political organization affiliation at any other time during which electors are permitted to register by submitting a letter or a form furnished by the county clerk and recorder, by mail, in person, or online in accordance with section 1-2-202.5. An unaffiliated eligible elector need not declare an affiliation to vote in a presidential primary election.

Source: L. 99: Entire section added, p. 158, § 3, effective August 4. **L. 2003:** (2) amended, p. 1308, § 2, effective April 22. **L. 2016:** (2) amended, (SB 16-142), ch. 173, p. 570, § 14, effective May 18. **Initiated 2016:** (2) amended, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2819; (2) amended, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2822.

Editor's note: (1) The amendments to subsection (2) by SB 16-142 were harmonized with amendments to the subsection in Propositions 107 and 108 approved by the voters November 8, 2016, and effective upon proclamation of the governor on December 27, 2016.

(2) (a) This section was amended by initiatives in 2016. The vote count on Proposition 107 at the general election held November 8, 2016, was as follows:

FOR: 1,701,599

AGAINST: 953,246

(b) The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

Cross references: For the declaration of the people of Colorado in Proposition 107, see section 1 on p. 2815, Session Laws of Colorado 2017. For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

1-2-219. Changing or withdrawing declaration of affiliation.

(1) Any eligible elector desiring to change or withdraw the elector's affiliation may do so by completing and signing a prescribed request for the change or withdrawal and filing it with the county clerk and recorder or by submitting a personal letter written by the elector to the county clerk and recorder at any time up to and including the twenty-second day preceding a primary election; except that, if the twenty-second day before the primary election is a Saturday, Sunday, or legal holiday, the change or withdrawal applies if made by the next day that is not a Saturday, Sunday, or legal holiday. The prescribed form or personal letter for the change must include the elector's printed name, address within the county, birth date, the last four digits of the elector's social security number, if the elector wishes to state it, and signature, the date, the elector's

previous affiliation status, and the requested change in affiliation status. A prescribed form must be furnished by the county clerk and recorder upon the elector's oral or written request. Upon receiving the request, the county clerk and recorder shall change the elector's affiliation on his or her registration record. If the affiliation is withdrawn, the designation on the elector's registration record must be changed to "unaffiliated". If an elector changes affiliation, the elector is entitled to vote, at any primary election, only the ballot of the political party to which the elector is currently affiliated. A change or withdrawal of affiliation may not be made by anyone other than the elector. Notwithstanding any other provision of law, a declaration or change of affiliation made by an unaffiliated elector in accordance with this section must be deferred if the elector has already been mailed a primary election ballot packet. The deadline by which the elector must declare, change, or withdraw an affiliation as specified in this subsection (1) only applies to a primary election and does not apply to a general or coordinated election.

(2) Any declaration, change, or withdrawal of affiliation made on the same form or personal letter as an address or name change shall be accepted by the county clerk and recorder if the form or personal letter is dated and signed so that it is clearly indicated that the elector intended to make the change or withdrawal indicated on the form or in the personal letter. An elector who is unable to write may request assistance from the county clerk and recorder, and the county clerk and recorder shall sign the form, witnessing the elector's mark or, on a personal letter, the elector shall have his or her signature attested to by a notary public.

Source: L. 92: Entire article R&RE, p. 652, § 2, effective January 1, 1993. **L. 93:** Entire section amended, p. 1401, § 21, effective July 1. **L. 99:** (1) amended, p. 158, § 4, effective August 4. **L. 2003:** (1) amended, p. 1309, § 3, effective April 22. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 571, § 15, effective May 18. **L. 2018:** (1) amended, (SB 18-233), ch. 262, p. 1605, § 6, effective May 29. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1634, § 8, effective June 21.

Editor's note: This section is similar to former § 1-2-217 as it existed prior to 1992.

1-2-220. Loss of party affiliation. (Repealed)

Source: L. 92: Entire article R&RE, p. 653, § 2, effective January 1, 1993. **L. 95:** Entire section amended, p. 824, § 16, effective July 1. **L. 99:** Entire section repealed, p. 165, § 28, effective August 4.

1-2-221. Continuation of affiliation. (Repealed)

Source: L. 92: Entire article R&RE, p. 653, § 2, effective January 1, 1993. **L. 93:** Entire section amended, p. 1402, § 22, effective July 1. **L. 99:** Entire section repealed, p. 165, § 28, effective August 4.

1-2-222. Errors in recording of affiliation.

(1) If an elector goes to the elector's legal voting place to vote at any primary election or to the office of the county clerk and recorder and contends that an error has been made in the recording of the elector's affiliation in the statewide voter registration system or that the affiliation has been unlawfully changed or withdrawn, the election judges or the county clerk and recorder shall allow the elector to make and sign an affidavit, which shall be substantially in the form provided in subsection (4) of this section. Any election judge or the county clerk and recorder has authority to administer the oath and take the acknowledgment of the elector's affidavit. When the affidavit is completed, the county clerk and recorder shall make the change as specified in the affidavit using the date provided by the elector on the affidavit as the new affiliation date.

(2) (Deleted by amendment, L. 99, p. 159, § 5, effective August 4, 1999.)

(3) For the purposes of determining the eligibility of candidates for nomination in accordance with sections 1-4-601 (4)(a) and 1-4-801 (4), the eligibility of persons to vote at any precinct caucus, assembly, or convention in accordance with section 1-3-101, or the eligibility of persons to sign petitions in accordance with section 1-4-801 (2), the date of declaration of the party affiliation of the elector must be the date which the elector alleges by affidavit to be the correct date of affiliation.

(4) Printed affidavit forms must be made available by the county clerk and recorder. The affidavit form must be substantially as follows:

STATE OF COLORADO)

) ss.

County of)
.....

I, ..., believing an error has been made as to the recording of my party affiliation, or a change unlawfully made, or a withdrawal unlawfully made in the statewide voter registration system, do solemnly swear, or affirm, that the party affiliation as now shown in the statewide voter registration system is an error, or has been unlawfully changed, or has been unlawfully withdrawn and that my correct party affiliation should be ..... instead of ..... and request that the party affiliation be corrected in the statewide voter registration system. My correct affiliation was made on or before ..... (date).

Dated .....

Signed .....

Subscribed and sworn to before me this ..... day of ....., 20....

.....

Election Judge or County Clerk

County .....

Source: L. 92: Entire article R&RE, p. 654, § 2, effective January 1, 1993. **L. 93:** (3) amended, p. 1765, § 1, effective June 6. **L. 99:** (1) and (2) amended, p. 159, § 5, effective August 4. **L. 2016:** (1) and (4) amended, (SB 16-142), ch. 173, p. 571, § 16, effective May 18. **L. 2021:** (1), (3), and (4) amended, (SB 21-250), ch. 282, p. 1634, § 9, effective June 21. **L. 2026:** (4) amended, (HB 26-1113), ch. 267, p. 1486, § 6, effective June 1.

Editor's note: This section is similar to former § 1-2-220 as it existed prior to 1992.

1-2-223. Names transferred when precinct boundaries changed.

(1) In case any new election precinct is formed within a county or in case of the division of any existing precinct, the precinct number on the voter's master file record shall be changed to reflect the new precinct number.

(2) In case any change is made in precinct boundaries as a result of annexation affecting county boundaries, the county clerk and recorder of the annexing county shall update in the statewide voter registration system the registration records of all electors residing in the annexed

territory as soon as practicable. The registrations are considered as continuing registrations with all the registered electors involved having full rights and privileges as if no change in county boundaries had occurred.

Source: L. 92: Entire article R&RE, p. 656, § 2, effective January 1, 1993. **L. 97:** (1) amended, p. 473, § 8, effective July 1. **L. 2012:** (2) amended, (HB 12-1292), ch. 181, p. 677, § 5, effective May 17. **L. 2016:** (2) amended, (SB 16-142), ch. 173, p. 572, § 17, effective May 18.

Editor's note: This section is similar to former § 1-2-221 as it existed prior to 1992.

1-2-224. Canceling registration. (Repealed)

Source: L. 92: Entire article R&RE, p. 656, § 2, effective January 1, 1993. **L. 93:** (6)(a) amended and (9) added, p. 1403, § 23, effective July 1. **L. 94:** (6)(a) and (7) amended, p. 1152, § 9, effective July 1; (1)(a), (2)(a)(II), (5)(a), (5)(b)(II), (6), and (9) amended, p. 1760, § 20, effective January 1, 1995. **L. 95:** (1)(a), IP(2), and (9) amended, p. 825, § 17, effective July 1. **L. 96:** (3.5) added, p. 1738, § 18, effective July 1. **L. 97:** Entire section repealed, p. 478, § 23, effective July 1.

Editor's note: This section was relocated to § 1-2-605 in 1997.

1-2-225. Change of polling place - accessibility for persons with disabilities. (Repealed)

Source: L. 92: Entire article R&RE, p. 659, § 2, effective January 1, 1993. **L. 93:** (1) to (6) amended, pp. 1629, 1403, §§ 1, 24, effective July 1. **L. 95:** (6) amended, p. 825, § 18, effective July 1. **L. 97:** (2) amended, pp. 473, 475, §§ 9, 16, effective July 1. **L. 99:** (6) amended, p. 759, § 10, effective May 20. **L. 2010:** Entire section repealed, (HB 10-1116), ch. 194, p. 830, § 6, effective May 5.

1-2-226. Deceased electors - purging of registration book. (Repealed)

Source: L. 92: Entire article R&RE, p. 661, § 2, effective January 1, 1993. **L. 97:** (1) and entire section repealed, pp. 475, 478, §§ 17, 23, effective July 1.

Editor's note: This section was relocated to § 1-2-602 in 1997.

1-2-227. Custody and preservation of records.

(1) (a) Registration records must be left in the custody of the county clerk and recorder, who is responsible for them. Except as provided in paragraph (b) of this subsection (1), the oaths or affirmations, applications for affidavit registration, federal postcard applications, applications for change of residence or change of name, and other papers provided for by this part 2 shall be preserved by the county clerk and recorder and shall not be destroyed until after the next general election. Such registration records, whether paper or digital, are public records subject to examination by any person, and such person has the right to make copies of the records during office hours.

(b) A county clerk and recorder may destroy paper voter registration records as soon as they have been digitally recorded in the statewide voter registration system.

(2) The voter information provided by a preregistrant who will not turn eighteen years old by the date of the next election shall be kept confidential in the same manner as, and using the programs developed for, information that is kept confidential pursuant to section 24-72-204 (3.5). Nothing in this subsection (2) shall be construed to require any request, application, or fee for such confidentiality. When the preregistrant is eighteen years old, such information is no longer confidential under this subsection (2).

(3) Beginning January 1, 2027, the secretary of state shall ensure that the voter information provided by a preregistrant who is seventeen years and six months old is accessible to that preregistrant and shall allow such a preregistrant to update their voter information using the online voter registration system created in section 1-2-202.5 if the preregistrant provides their name, zip code, date of birth, and either the last four digits of their social security number or their driver's license or state-issued identification number.

Source: L. 92: Entire article R&RE, p. 661, § 2, effective January 1, 1993. **L. 2013:** Entire section amended, (HB 13-1135), ch. 184, p. 679, § 8, effective August 7. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 572, § 18, effective May 18. **L. 2019:** (2) amended, (HB 19-1278), ch. 326, p. 3007, § 8, effective August 2. **L. 2023:** (2) amended, (SB 23-276), ch. 399, p. 2375, § 6, effective June 6. **L. 2026:** (2) amended and (3) added, (HB 26-1113), ch. 267, p. 1486, § 7, effective June 1.

Editor's note: This section is similar to former § 1-2-224 as it existed prior to 1992.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Law reviews. For note, "Purged Voter Lists", see 44 Den. L.J. 279 (1967).

1-2-228. Residence - false information - penalty.

Any person who votes by knowingly giving false information regarding the elector's place of present residence commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 92: Entire article R&RE, p. 662, § 2, effective January 1, 1993. **L. 2002:** Entire section amended, p. 1464, § 4, effective October 1.

Editor's note: This section is similar to former § 1-2-225 as it existed prior to 1992.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

ANNOTATION

Conduct prohibited by this section is sufficiently distinguishable from misdemeanor election statute to create two separate offenses, avoiding violation of equal protection clause. This section is violated when defendant actually votes by providing false information about present residence. People v. Onesimo Romero, 746 P.2d 534 (Colo. 1987) (decided under former law).

1-2-229. Change in status of electors deemed "Inactive - failed to vote" - update to active status - repeal. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 695, § 18, effective May 10.

Editor's note: Subsection (3) provided for the repeal of this section, effective July 1, 2014. (See L. 2013, p. 695.)

PART 3

MASTER LIST OF ELECTORS

1-2-300.3. Definitions.

As used in this part 3, unless the context otherwise requires:

(1) "Centralized statewide registration system" means the single, uniform, official, centralized, interactive, computerized statewide voter registration system implemented as required by section 1-2-301 (1).

Source: L. 2025: Entire section added, (SB 25-275), ch. 377, p. 2027, § 1, effective August 6.

1-2-301. Centralized statewide registration system - secretary of state to maintain computerized statewide voter registration list - county computer records - agreement to match information - definition - rules.

(1) The secretary of state shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive, computerized statewide voter registration system defined, maintained, and administered at the state level, which system shall contain a computerized statewide voter registration list maintained by the secretary of state that contains the name and registration information of every legally registered voter in the state and that assigns a unique identifier to each legally registered voter. The centralized statewide registration system and the computerized statewide voter registration list must be fully compliant with all applicable requirements specified in section 303 of the federal "Help America Vote Act of 2002", 52 U.S.C. sec. 20901 et seq.

(2) (a) On and after January 1, 2006, the county clerk and recorder of each county shall maintain voter registration information by utilizing the centralized statewide registration system

developed or acquired by the department of state under subsection (1) of this section. Prior to the implementation of the computerized statewide voter registration list required by subsection (1) of this section, if the county chooses to maintain voter registration information on its own computer system, the information required by law to be transmitted to the secretary of state shall be transmitted in a media format acceptable to the secretary of state and within the time prescribed by the secretary of state, by this section, and by section 1-2-302.

(b) Repealed.

(3) (Deleted by amendment, L. 2001, p. 514, § 1, effective January 1, 2002.)

(4) (a) (I) (Deleted by amendment, L. 2003, p. 2073, § 9, effective May 22, 2003.)

(II) The centralized statewide registration system shall enable county clerk and recorders to maintain voter registration information and shall include such additional capabilities as may be necessary or desirable to enable county clerk and recorders and the secretary of state to carry out their responsibilities related to the conduct of elections. Such additional capabilities may include but need not be limited to the preparation of ballots, the identification of voting districts for each address, access by county clerk and recorders to the master list of registered electors and, on or after January 1, 2006, the computerized statewide voter registration list maintained pursuant to this section and section 1-2-302, the management of mail ballots, the preparation of official abstracts of votes cast, the transmission of voting data from county clerk and recorders to the secretary of state, and reporting of voting results on election night. County clerk and recorders shall have access to the digitized signatures of electors in the centralized statewide registration system for the purpose of comparing an elector's signature in the system with the signature on the return envelope of a mail ballot, including by using a signature verification device in accordance with section 1-7.5-107.3 (5).

(III) Subject to available appropriations, the department of state is responsible for the cost of acquiring computer hardware and providing necessary training for the centralized statewide registration system. The secretary of state shall promulgate rules specifying whether such hardware is owned by the department or the counties or whether and to what extent ownership may be shared between the department and the counties. If the department provides system hardware to any county clerk and recorder, it may transfer ownership of the hardware to that clerk and recorder. The secretary of state may promulgate rules providing that the county clerk and recorders shall be solely responsible for the support and maintenance of the hardware provided to the counties. On or after January 1, 2006, the department shall make the centralized statewide registration system software available at no charge to the clerk and recorder of each county.

(b) As soon as practicable, the department of state shall make the master list of registered electors available at no charge on the internet to the county clerk and recorders. This paragraph

(b) shall not be construed to require the department to provide or pay for internet connection services for any county.

(c) (Deleted by amendment, L. 2003, p. 2073, § 9, effective May 22, 2003.)

(5) (a) For elections conducted by mail ballot under the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., after March 30, 2018, a clerk must be given access to the digitized signatures for each elector contained in the lists provided to the clerk pursuant to section 31-10-910 (1), C.R.S., in the centralized statewide voter registration system for the purpose of comparing an elector's signature in the system with the signature on the self-affirmation on the return envelope of a mail ballot, including by using a signature verification device, in accordance with section 31-10-910.3, C.R.S.

(b) As used in this subsection (5), "clerk" has the same meaning set forth in section 31-10-102, C.R.S.

(6) By July 1, 2021, the department of state shall, in consultation with county clerk and recorders, further develop the statewide voter registration database to minimize wait times at polling locations. Specifically, the department of state shall develop the database to:

(a) Streamline the voter check-in process; and

(b) Provide a simple and intuitive user interface for election judges at voter service and polling centers.

(7) (a) The statewide voter registration system must support the integration and use of geographic information system data to improve the accuracy, consistency, and reliability of voter registration records.

(b) The secretary of state may incorporate geographic information system functionality into the statewide voter registration system to:

(I) Validate and maintain voter residential and mailing address information using spatial data, parcel data, or other geographic reference layers;

(II) Improve the accuracy of precinct, district, and jurisdictional assignments;

(III) Support timely and accurate implementation of district boundary changes resulting from redistricting or other lawful adjustments; and

(IV) Reduce undeliverable election mail, improve mail ballot delivery efficiency, and minimize the need for corrective or replacement ballots.

(c) Geographic information system data used under this subsection (7) shall not be used to determine voter eligibility, challenge a voter's registration, or restrict a registered elector's right to vote.

(d) The secretary of state may adopt rules as necessary to implement this subsection (7), including rules governing data sources, data sharing with county clerks and recorders, data security, and procedures for resolving address discrepancies.

(e) The secretary of state shall ensure that the statewide voter registration system fully implements geographic information system functionality authorized under this subsection (7) no later than July 1, 2029.

Source: L. 92: Entire article R&RE, p. 662, § 2, effective January 1, 1993. **L. 93:** (3) added, p. 2039, § 1, effective July 1. **L. 94:** (2) amended, p. 1152, § 10, effective July 1; (3) amended, p. 2542, § 8, effective January 1, 1995. **L. 95:** (2) amended, p. 179, § 2, effective April 7. **L. 97:** (1) and (2)(b) amended, p. 474, § 10, effective July 1. **L. 99:** (2)(b) amended, p. 759, § 11, effective May 20. **L. 2000:** (1) amended, p. 1758, § 2, effective January 1, 2001. **L. 2001:** (4) added, p. 515, § 2, effective May 18; (2)(a) and (3) amended, p. 514, § 1, effective January 1, 2002. **L. 2003:** (1), (2)(a), and (4) amended, p. 2073, § 9, effective May 22. **L. 2005:** (1) amended, p. 758, § 1, effective June 1. **L. 2007:** (4)(a)(II) amended, p. 1776, § 7, effective June 1. **L. 2008:** (4)(a)(II) amended, p. 356, § 1, effective April 10. **L. 2009:** (2)(b) repealed, (HB 09-1018), ch. 158, p. 682, § 2, effective August 5. **L. 2014:** (4)(a)(II) amended, (HB 14-1164), ch. 2, p. 72, § 35, effective February 18. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 573, § 19, effective May 18; (5) added, (HB 16-1070), ch. 130, p. 373, § 2, effective August 10. **L. 2019:** (6) added, (HB 19-1278), ch. 326, p. 3008, § 9, effective August 2. **L. 2025:** (1) amended, (SB 25-275), ch. 377, p. 2027, § 2, effective August 6. **L. 2026:** (7) added, (HB 26-1113), ch. 267, p. 1487, § 8, effective June 1.

Editor's note: This section is similar to former § 1-2-301 as it existed prior to 1992.

Cross references: (1) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-2-302. Maintenance of computerized statewide voter registration list - confidentiality.

(1) The secretary of state shall maintain the master list of registered electors of the entire state on as current a basis as is possible.

(1.5) The maintenance of the computerized statewide voter registration list by the secretary of state pursuant to section 1-2-301 (1) shall be conducted in a manner that ensures that:

(a) The name of each registered elector appears in the computerized statewide voter registration list;

(b) Only the names of voters who are not registered or who are not eligible to vote are removed from the computerized statewide voter registration list; and

(c) Duplicate names are removed from the computerized statewide voter registration list.

(2) The electors on the computerized statewide voter registration list shall be identified by name, place of residence, precinct number, date of birth, Colorado driver's license number, social security number, or other identification number, as such numbers may have been provided by the elector at the time the elector first registered to vote, and the date of registration.

(3) (Deleted by amendment, L. 2009, (HB 09-1018), ch. 158, p. 683, § 3, effective August 5, 2009.)

(3.5) (a) The secretary of state shall coordinate the computerized statewide voter registration list with state agency records on death. Upon being furnished with the report provided to him or her by the state registrar of vital statistics pursuant to section 1-2-602 (1), the secretary of state may electronically cancel the registration of deceased persons.

(b) The secretary of state shall coordinate the computerized statewide voter registration list with state agency records on felony status. Upon being furnished with information from the Colorado integrated criminal justice system that a particular registered elector has been convicted of a felony, the secretary of state may electronically cancel the registration of persons who have been convicted of a felony.

(4) Repealed.

(5) (a) (Deleted by amendment, L. 97, p. 476, § 18, effective July 1, 1997.)

(b) Repealed.

(6) The secretary of state shall determine and use other necessary means to maintain the master list of registered electors on a current basis. The department of state and the department of revenue shall allow for the exchange of information between the systems used by them to collect information on residence addresses, signatures, and party affiliation for all applicants for driver's licenses or state identification cards. No later than July 31, 2019, the department of state shall regularly provide the department of revenue with current voter registration information. The department of revenue must use the information to determine whether an individual is registered to vote at the time he or she applies to obtain, renew, or update a driver's license or state identification card. The department of state shall reimburse the department of revenue, through a one-time reimbursement, for any initial costs the department of revenue incurs in connection

with updating Colorado DRIVES, as defined in section 42-1-102 (16.5), to allow the department of revenue to receive voter registration information and to use such information for the purposes described in this section. The department of revenue may exchange information on residence addresses in the driver's license database with the motor vehicle registration database, motorist insurance database, and the state income tax information systems.

(6.5) (a) At the earliest practical time, the secretary of state, acting on behalf of the department of state, and the executive director of the department of revenue, as the official responsible for the division of motor vehicles, shall enter into an agreement to match information in the database of the centralized statewide registration system with information in the database of the division of motor vehicles to the extent required to enable each department to verify the accuracy of the information provided on applications for voter registration in conformity with the requirements of section 1-2-301.

(b) At the earliest practical time, the secretary of state, acting on behalf of the department of state, shall enter into agreements with the executive directors of the department of public health and environment and the department of corrections to access information in the databases of the department of public health and environment and the department of corrections, to the extent required to enable the verification of the accuracy of the information provided on applications for voter registration in conformity with the requirements of section 1-2-301.

(c) At the earliest practical time, the secretary of state, acting on behalf of the department of state, shall enter into agreements with the executive directors of voter registration agencies as defined in section 1-2-504 (1)(a) and (1)(b) to the extent required to enable the transfer and verification of information for voter registration purposes in accordance with section 1-2-502.5.

(6.7) The department of revenue shall enter into an agreement with the federal commissioner of social security for the purpose of verifying applicable information in accordance with the requirements of section 303 (a)(5)(B)(ii) of the federal "Help America Vote Act of 2002", 52 U.S.C. sec. 20901 et seq. On or before March 1, 2022, the department of revenue shall provide access to the department of state for verification of a person's name, date of birth, and the last four digits of the person's social security number pursuant to the agreement entered into under this section to allow real-time interactive validation of online voter registration applicants pursuant to section 1-2-202.5.

(6.8) In accordance with subsections (6) and (6.5) of this section, the secretary of state may forward any information obtained from the division of motor vehicles in the department of revenue or voter registration agencies as defined in section 1-2-504 (1)(a) and (1)(b) to the appropriate county clerk and recorder. If the information meets the minimum matching criteria as specified in sections 1-2-603 and 1-2-604, the clerk shall then update the elector's voter registration record in the master list of registered electors.

(7) Repealed.

(8) The secretary of state shall provide adequate technological security measures to prevent unauthorized access to the computerized statewide voter registration list. The secretary of state shall also establish adequate and reasonable technological security requirements for the exchange or transfer of data related to voter registration between the secretary of state and any other state agency or voter registration agency as defined in section 1-2-504 (1)(a) and (1)(b). Before commencing any data exchange or transfer required under this article 2, and no later than the date such exchange or transfer is required by statute to begin, the state agency or voter registration agency shall adhere to the technological security requirements established by the secretary of state under this section. The secretary of state, the department of revenue, the department of public health and environment, the department of corrections, and the clerk and recorders shall not sell, disclose, or otherwise release a social security number, a driver's license or a state-issued identification number, or the unique identification number assigned by the secretary of state to the voter pursuant to section 1-2-204 (2.5) or electronic copies of signatures created, transferred, or maintained pursuant to this section or section 42-1-211, to any individual other than the elector who created such signature absent such elector's consent; except that nothing in this subsection (8) prohibits the sale, disclosure, or release of an electronic copy of such signature for use by any other public entity in carrying out its functions, or the sale, disclosure, or release of a photocopied or microfilmed image of an elector's signature.

Source: L. 92: Entire article R&RE, p. 662, § 2, effective January 1, 1993. **L. 93:** (6) amended, p. 2040, § 2, effective July 1. **L. 94:** (6) amended, p. 2542, § 9, effective January 1, 1995. **L. 95:** IP(1) and (3) amended, p. 180, § 3, effective April 7. **L. 97:** (1) to (3) and (5)(a) amended and (4), (5)(b), and (7) repealed, pp. 476, 478, §§18, 23, effective July 1. **L. 99:** (1) amended, p. 759, § 12, effective May 20. **L. 2001:** (6) amended, p. 518, § 7, effective January 1, 2002. **L. 2002:** (6) amended, p. 1626, § 2, effective June 7; (8) added, p. 1864, § 1, effective June 7. **L. 2003:** (1.5), (3.5), (6.5), and (6.7) added and (2), (3), and (8) amended, p. 2075, § 10, effective May 22. **L. 2005:** (6.7) amended, p. 759, § 2, effective June 1; (6.5) amended, p. 17, § 1, effective July 1. **L. 2009:** (6) amended, (HB 09-1160), ch. 263, p. 1208, § 2, effective May 15; (1) and (3) amended, (HB 09-1018), ch. 158, p. 683, § 3, effective August 5. **L. 2013:** (6.5) and (8) amended, (HB 13-1303), ch. 185, p. 696, § 19, effective May 10. **L. 2015:** (6.8) added, (SB 15-060), ch. 147, p. 444, § 1, effective August 5. **L. 2016:** (6.7) amended, (SB 16-142), ch. 173, p. 573, § 20, effective May 18. **L. 2017:** (6) and (6.7) amended, (HB 17-1107), ch. 101, p. 373, § 27, effective August 9. **L. 2018:** (6) amended, (SB 18-233), ch. 262, p. 1606, § 7, effective May 29. **L. 2019:** (6.5)(c) added and (6.8) and (8) amended, (SB 19-235), ch. 329, p. 3051, § 2, effective August 2. **L. 2021:** (6.7) amended, (SB 21-250), ch. 282, p. 1633, § 4, effective June 21.

Editor's note: (1) This section is similar to former § 1-2-302 as it existed prior to 1992.

(2) Subsections (4) and (7) were relocated to § 1-2-602 and subsection (5)(b) was relocated to § 1-2-604 in 1997.

Cross references: In 2013, subsections (6.5) and (8) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-302.5. Change of address search - rules.

(1) The secretary of state shall conduct a monthly national change of address search, using the national change of address database administered by the United States postal service, for all electors whose names appear in the statewide voter registration list.

(2) (a) The secretary of state shall transmit monthly to the appropriate county clerk and recorders the data obtained from the search conducted under subsection (1) of this section.

(b) If any search of the national change of address database administered by the United States postal service conducted under this section indicates an elector has permanently moved, the county clerk and recorder shall act as follows:

(I) (A) If the search indicates that the elector moved within the state, the county clerk and recorder of the county in which the elector's new address is located shall mark the elector's registration record as "Active" and update the elector's registration record with the elector's new address and send, to the elector's old address, notice of the change by forwardable mail and a postage pre-paid pre-addressed return form by which the registrant may verify or correct the address information.

(B) If the elector returns the return form sent pursuant to sub-subparagraph (A) of this subparagraph (I) and indicates that he or she has not moved, the county clerk and recorder of the county in which the elector's old address is located shall immediately correct the elector's previously updated address in the statewide voter registration database.

(C) If the elector returns the return form confirming the new address, or if the elector does not return the return form, the county clerk and recorder shall leave the elector's new address and status as updated in the registration record pursuant to sub-subparagraph (A) of this subparagraph (I).

(II) Repealed.

(III) If the search indicates that the elector moved to a different state, the county clerk and recorder shall mark the elector's registration record "Inactive" and send a confirmation card and:

(A) If the elector returns the confirmation card and confirms the new address, the county clerk and recorder shall cancel the elector's registration record in the statewide voter registration database;

(B) If the elector does not return the confirmation card, the elector's registration record must remain "Inactive". If the inactive elector subsequently fails to vote in two consecutive general elections, the county clerk and recorder shall cancel the elector's registration record in accordance with section 1-2-605 (7).

(C) If the elector returns the confirmation card and indicates the elector has not moved, the county clerk and recorder shall immediately correct the elector's registration record in the statewide voter registration database and mark the voter "Active".

(c) A county clerk and recorder shall make corrections to address updates made pursuant to a national change of address search upon receiving additional information from the elector.

(3) Repealed.

(4) If any search conducted pursuant to this section indicates that an elector has added or changed a post office box, the county clerk and recorder shall update the elector's registration record with the new post office box as the elector's mailing address and send him or her a confirmation card in accordance with section 1-2-605. The card must notify the elector of the change in mailing address and apprise the elector of his or her place of residence for voting purposes.

(5) In addition to the search conducted by the secretary of state pursuant to subsection (1) of this section, a county clerk and recorder may conduct a national change of address search using the national change of address database administered by the United States postal service as frequently as he or she sees fit.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 696, § 20, effective May 10. **L. 2014:** (1), IP(2)(b), (2)(b)(I)(A), and (2)(b)(I)(C) amended; (2)(c), (4), and (5) added; and (3) repealed, (SB 14-161), ch. 160, p. 558, § 7, effective May 9. **L. 2016:** (2)(b)(I) and IP(2)(b)(III) amended and (2)(b)(II) repealed, (HB 16-1093), ch. 126, p. 359, § 3, effective April 21.

Cross references: In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-303. Multiple registration - most recent date of registration determines precinct in which allowed to vote.

(1) If a registered elector is registered to vote in more than one precinct in this state, the elector shall vote only in the precinct which pertains to the most recent date of registration, as determined by the secretary of state's master list of registered electors.

(2) and (3) Repealed.

Source: L. 92: Entire article R&RE, p. 664, § 2, effective January 1, 1993. **L. 93:** Entire section amended, p. 278, § 1, effective July 1. **L. 95:** (2) amended and (3) added, p. 825, § 19, effective July 1. **L. 97:** (1) amended and (2) and (3) repealed, pp. 474, 478, §§ 11, 23, effective July 1.

Editor's note: (1) This section is similar to former § 1-2-303 as it existed prior to 1992.

(2) Subsections (2) and (3) were relocated to § 1-2-603 in 1997.

Cross references: For penalty for voting twice, see § 1-13-710.

1-2-304. Multiple registration - procedure. (Repealed)

Source: L. 92: Entire article R&RE, p. 664, § 2, effective January 1, 1993. **L. 97:** Entire section repealed, pp. 478, 474, §§ 23, 12, effective July 1.

Editor's note: Subsection (1) was relocated to § 1-2-604 in 1997.

1-2-305. Postelection procedures - voting history - definitions.

(1) Not later than sixty days after a state election, the county clerk and recorder shall generate a list of electors within the county who submitted more than one ballot for the election.

(2) If it is determined that an elector has voted more than once, the secretary of state or the county clerk and recorder shall notify the proper district attorney for prosecution of a violation of this code.

(3) As used in this section, unless the context otherwise requires:

(a) "District of state concern" means a congressional district or a unique political subdivision with territory in more than one county and with its own enabling legislation, as identified by rules adopted by the secretary of state pursuant to section 1-1-104 (9.5).

(b) "State election" means a general, primary, or congressional vacancy election, a special legislative election involving more than one county, a ballot issue election involving a statewide ballot issue, or any election involving a candidate or ballot issue for a district of state concern.

(4) No later than March 1 of each year following a year in which a general election was held, the secretary of state shall distribute to each major and minor political party, free of charge, a list of individuals who actually voted in such election. Such list may be in the form of a computer list.

Source: L. 92: Entire article R&RE, p. 664, § 2, effective January 1, 1993. **L. 95:** Entire section amended, p. 180, § 4, effective April 7. **L. 2000:** (1) amended and (3) and (4) added, p. 1758, § 3, effective January 1, 2001. **L. 2007:** (1) amended, p. 1777, § 8, effective June 1. **L. 2009:** (1) and (2) amended, (HB 09-1018), ch. 158, p. 683, § 4, effective August 5. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 698, § 21, effective May 10. **L. 2016:** (1) and (2) amended, (SB 16-142), ch. 173, p. 573, § 21, effective May 18.

Editor's note: This section is similar to former § 1-2-305 as it existed prior to 1992.

Cross references: In 2013, subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

PART 4

HIGH SCHOOL REGISTRATION

Editor's note: The addition of this part 4 by House Bill 92-1317 and the repeal and reenactment of this article by House Bill 92-1333 were harmonized.

1-2-401. Legislative declaration.

It is the intent of the general assembly that, to promote and encourage voter registration of all eligible electors in the state, registration should be made as convenient as possible. It is determined by the general assembly that if voter registration is convenient, the number of registered voters will increase. It is further determined by the general assembly that support and cooperation of school officials and interested citizens will make high school registration successful. It is therefore the purpose of this part 4 to encourage voter registration by providing convenient registration procedures for qualified high school students, employees, and other persons by using high school liaisons.

Source: L. 92: Entire part added, p. 621, § 1, effective July 1. **L. 93:** Entire section amended, p. 1403, § 25, effective July 1. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1488, § 9, effective June 1.

1-2-402. Registration by high school liaisons - rules.

(1) Each principal of a public high school, or the principal's designee who is a registered voter in the state, may serve as a high school liaison. The principal of each high school shall notify the county clerk and recorder of the county in which the high school is located of the name of the school's high school liaison, and the county clerk and recorder shall maintain a list of the names of all of the high school liaisons in that county in a public file.

(2) The high school liaison may register or preregister any student, employee of the school, other person who attends school functions, or any other person who is eligible to register or preregister to vote. Voter registration may be made available only when the school is open for classes or any other school or community function. The high school liaison shall take registrations or preregistrations only on school district premises.

(3) A high school liaison may have available an official application form for voter registration for each student who is eighteen years old or who will be eighteen years old at the time of the next election. A high school liaison may have available an official application form for preregistration for each student who is fifteen years old.

Source: L. 92: Entire part added, p. 621, § 1, effective July 1. **L. 93:** Entire section amended, p. 1403, § 26, effective July 1. **L. 2019:** (2) and (3) amended, (HB 19-1278), ch. 326, p. 3008, § 10, effective August 2. **L. 2024:** (3) amended, (SB 24-210), ch. 468, p. 3242, § 5, effective January 1, 2025. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1488, § 10, effective June 1.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-2-403. Training and registration materials for high school liaisons - processing applications.

(1) The county clerk and recorder shall train and supervise the high school liaisons, and, after training is completed, shall administer the oath of office to the high school liaisons.

(2) The county clerk and recorder shall issue sufficient materials to each high school liaison for the registration or preregistration of all eligible students, employees, and other persons at the high school that the high school liaison serves.

(3) (a) Repealed.

(b) (I) Except as provided in subsection (3)(b)(II) of this section, the high school liaison shall forward applications and changes on a weekly basis to the county clerk and recorder of the county in which the high school is located.

(II) (A) During the last week allowed for registration applications submitted by mail prior to any election, the high school liaison shall forward applications daily to the county clerk and recorder of the county in which the high school is located.

(B) Within eight days prior to an election, a high school liaison shall accept an application tendered under this section and shall immediately inform the applicant that, to vote in the upcoming election, the voter must go to a voter service and polling center.

(4) Upon receipt of an application, the county clerk and recorder shall determine if the application is complete. If the county clerk and recorder determines that the application is complete, the applicant shall be deemed registered or preregistered as of the date of application. If the county clerk and recorder determines that the application is not complete, the county clerk and recorder shall notify the applicant, stating the additional information required. The applicant shall be deemed registered or preregistered as of the date of application when the additional information is provided any time prior to the actual voting.

Source: L. 92: Entire part added, p. 622, § 1, effective July 1. **L. 93:** (1), (2), and (3) amended, p. 1404, § 27, effective July 1. **L. 2013:** (3) amended, (HB 13-1303), ch. 185, p. 698, § 22, effective May 10. **L. 2014:** (3)(b)(II)(B) amended, (SB 14-161), ch. 160, p. 559, § 8, effective May 9. **L. 2019:** (2), (3)(a), and (4) amended, (HB 19-1278), ch. 326, p. 3008, § 11, effective

August 2. **L. 2026:** (1), (2), and (3)(b) amended and (3)(a) repealed, (HB 26-1113), ch. 267, p. 1488, § 11, effective June 1.

Cross references: (1) In 2013, subsection (3) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

PART 5

MAIL REGISTRATION AND REGISTRATION AT VOTER REGISTRATION AGENCIES

1-2-501. Form for mail and agency registration - procedures for registration by mail for first-time electors - additional identifying information to be provided by first-time registrants.

(1) The secretary of state, in consultation with the federal election assistance commission, shall develop an application form that may be used for mail voter registration, voter registration at voter registration agencies, and voter change of address. The form developed must:

(a) Require only such identifying information, including the signature of the applicant and other information such as data relating to previous registration by the applicant, as is necessary to enable the appropriate county clerk and recorder to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(b) Include a statement that:

(I) Specifies each eligibility requirement, including citizenship;

(II) Contains an affirmation that the applicant meets each requirement; and

(III) Requires the signature of the applicant, under penalty of perjury;

(b.5) (I) Include:

(A) The question: "Are you a citizen of the United States of America?" and boxes for the applicant to indicate whether the applicant is or is not a citizen of the United States;

(B) The question "Will you be eighteen years of age on or before election day?" and boxes for the applicant to indicate whether or not the applicant will be eighteen years of age or older on election day;

(C) The statement "If you checked 'no' in response to either of these questions, do not complete this form."; and

(D) A statement informing the applicant that, if the form is submitted by mail and the applicant has not previously voted in the county, or in the state if the statewide voter registration system required by section 1-2-301 is operating, the applicant shall submit with the registration form a copy of identification as defined in section 1-1-104 (19.5), the applicant's driver's license number, or the last four digits of the applicant's social security number, otherwise the applicant will be required to submit a copy of identification with the applicant's mail ballot or absentee ballot.

(II) If an applicant for registration fails on the mail registration form to answer the question specified in sub-subparagraph (A) of subparagraph (I) of this paragraph (b.5), the state or local election official shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of the registration form prior to the next election for federal office.

(c) Not include any requirement for notarization or other formal authentication; and

(d) Include, in print that is identical to that used in the affirmation portion of the application:

(I) A statement of the penalties provided by law for submission of a false voter registration application;

(II) A statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes; and

(III) A statement that if an applicant does register to vote, the office at which the applicant submits a voter registration application will remain confidential and will be used only for voter registration purposes.

(e) Repealed.

(1.5) Repealed.

(2) (a) Subject to the requirements of paragraph (b) of this subsection (2), in addition to the identifying information required to be provided by the elector pursuant to subsection (1) of this section, a person who applies to register by mail in accordance with this part 5 shall submit with the registration application:

(I) In the case of an elector who has been issued a current and valid Colorado driver's license or a current and valid identification card issued by the department of revenue in accordance with part 3 of article 2 of title 42, C.R.S., the number of the elector's Colorado driver's license or identification card; or

(II) In the case of an elector who has not been issued a current and valid Colorado driver's license or a current and valid identification card issued by the department of revenue in accordance with part 3 of article 2 of title 42, C.R.S., the last four digits of the person's social security number.

(a.5) If an applicant has not been issued a current and valid Colorado driver's license, has not been issued a current and valid identification card by the department of revenue in accordance with part 3 of article 2 of title 42, C.R.S., and does not have a social security number, the secretary of state shall assign the applicant a number for voter registration purposes in accordance with section 1-2-204 (2.5).

(b) Notwithstanding any other provision of law, a Colorado driver's license number, the number of an identification card issued by the department of revenue in accordance with the requirements of part 3 of article 2 of title 42, C.R.S., or the last four digits of the person's social security number shall only be received in satisfaction of the requirements of this subsection (2) where the state or local election official matches the number of the driver's license or identification card or the person's social security number submitted under paragraph (a) of this subsection (2) with an existing state identification record bearing the same number, name, and date of birth as provided in such registration information.

(c) If the elector does not comply with the requirements of this subsection (2), the county clerk and recorder shall not register the elector.

Source: L. 94: Entire part added, p. 1762, § 21, effective January 1, 1995. **L. 2003:** (1)(b.5) and (2) added, pp. 2076, 2077, §§ 11, 12, effective May 22. **L. 2004:** IP(1) and (1)(b.5)(I)(D) amended, p. 1053, § 4, effective May 21. **L. 2006:** (1)(b.5)(I)(D) and (2)(a) amended and (1.5) and (2)(a.5) added, pp. 2029, 2030, §§ 3, 4, 5, effective June 6. **L. 2007:** (1)(e) added and (1.5)(b) amended, p. 1777, §§ 9, 10, effective June 1; IP(1.5), (2)(a), and (2)(a.5) amended and (2)(c) added, p. 1969, § 6, effective August 3. **L. 2013:** IP(1), IP(1.5), and (1.5)(b) amended and (1)(e) repealed, (HB 13-1303), ch. 185, p. 698, § 23, effective May 10. **L. 2016:** (1.5) repealed, (SB 16-142), ch. 173, p. 593, § 81, effective May 18.

Cross references: In 2013, the introductory portions to subsections (1) and (1.5) and subsection (1.5)(b) were amended and subsection (1)(e) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-502. Form for agency registration.

(1) In addition to the information required in section 1-2-501, the form used at a voter registration agency shall include:

(a) The question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(b) If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(c) Boxes for the applicant to check to indicate whether the applicant would like to register or decline to register to vote, together with the statement, in close proximity to the boxes and in prominent type, "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(d) The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.".

(e) The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the secretary of state." The form shall also include the address and telephone number of the secretary of state.

(2) All agencies providing an opportunity to complete the voter registration forms shall keep copies of all records relating to the completion of the forms for two years. The forms shall not be considered public records but are available to the secretary of state for purposes of compiling data in compliance with the federal "National Voter Registration Act of 1993", 52 U.S.C. sec. 20501 et seq.

Source: L. 94: Entire part added, p. 1763, § 21, effective January 1, 1995. **L. 2016:** (2) amended, (SB 16-142), ch. 173, p. 573, § 22, effective May 18; (2) amended, (SB 16-189), ch. 210, p. 753, § 3, effective June 6.

Editor's note: Amendments to subsection (2) by SB 16-189 and SB 16-142 were harmonized.

1-2-502.5. Transfer of voter registration information to secretary of state.

(1) Subject to compliance with all applicable federal laws and regulations, the department of health care policy and financing shall provide to the secretary of state, on a schedule established by the secretary of state, electronic records containing the full name, date of birth, residence address, deliverable mailing address if different from the residence address, and county of residence for each registered and unregistered eligible elector who applies for medical assistance as defined in section 25.5-4-103 (13); except that the department of state shall not use the record of a person who is a program participant in the "Address Confidentiality Program Act", part 21 of article 30 of title 24, for voter registration purposes.

(2) If available, the department of health care policy and financing shall also provide, for each eligible elector, an electronic copy of the elector's signature and the eligible elector's valid Colorado driver's license or identification card number or the last four digits of the elector's social security number.

(3) Upon receiving the electronic record for an unregistered eligible elector that includes all of the information in subsection (1) of this section and either the elector's valid Colorado driver's license or identification card number or the last four digits of the elector's social security number in accordance with subsection (2) of this section, the secretary of state shall provide the information to the county clerk and recorder of the county in which the elector resides. Upon receipt of a record, the county clerk and recorder shall determine if the record is complete for the purposes of voter registration. If the record is not complete, the county clerk and recorder shall send to the person's address of record, by nonforwardable mail, notice that the person has not been registered to vote and stating the additional information required to register. If the person provides the additional information, the person is registered to vote effective on the date of the person's application with the department of health care policy and financing. If the person does not provide the additional information necessary to make his or her application complete and accurate within twenty-four months after the notification is mailed pursuant to this subsection (3), the person's registration is canceled.

(4) If the record is complete for purposes of voter registration, the county clerk and recorder shall send to the person's address of record, by nonforwardable mail, notice that the person has been registered to vote and a postage paid preaddressed return form by which the person may:

(a) Decline to be registered as an elector; or

(b) Affiliate with a political party; and

(c) Provide a signature if, at the time the elector applied for medical assistance, the person did not use a Colorado driver's license or identification number and did not provide an electronic copy of their signature. The form must include information on how the elector can upload a signature electronically.

(5) A notice mailed under subsection (4) of this section must include an explanation, in both English and Spanish, of the eligibility requirements to register to vote, and a statement that, if the person is not eligible, the person should decline to register using the preaddressed return form.

(6) The notice provided under subsection (4) of this section must include a statement that, if a person declines to register to vote, the fact that the person has declined to register will remain confidential and will be used only for voter registration statistics purposes, and a statement that, if the person remains registered to vote, the office at which the person was registered will remain confidential and will be used only for voter registration statistics purposes.

(7) (a) (I) If a notice provided under subsections (3) and (4) of this section is returned as undeliverable within twenty days after the county clerk and recorder mails the notice, the person's registration is canceled and the person is deemed to have never registered. If the notice is returned as undeliverable after twenty days after the county clerk and recorder mails the notice, the person's registration is marked inactive.

(II) Notwithstanding subsection (7)(a)(I) of this section, if a person votes in an election after the transfer of the person's record but before the notice is returned as undeliverable, the person's registration shall not be canceled or marked inactive.

(b) If a notice provided under subsection (4) of this section is not returned within twenty days, or if the person returns the form and provides a signature but does not affiliate with a party, the person is registered as of the date of the person's application with the department of health care policy and financing and the person shall be marked as unaffiliated.

(c) If a person returns the form provided under subsection (4) of this section and declines to be registered, including if the person returns the form and both declines to be registered and also affiliates with a party or provides a signature for registration, the person's registration is canceled and the person is deemed to have never registered; except that, if the person has voted in an election, the returned form is of no effect and the person remains registered as of the date of the person's application with the department of health care policy and financing.

(d) If a person returns the form provided under subsection (4) of this section and affiliates with a party, the person is registered as of the date of the person's application with the department of health care policy and financing and the person's affiliation shall be marked effective as of the date the affiliation information was received.

(e) If a person returns the form without selecting any option, the returned form is of no effect. The person is registered as of the date of the person's application with the department of health care policy and financing and shall be marked as unaffiliated.

(7.5) (a) Subject to compliance with all applicable federal laws and regulations, the department of health care policy and financing shall provide to the secretary of state, on a schedule established by the secretary of state, notice of any registered elector who informs the

department of a change of name or address. Upon receiving notice of the change of name or address, the secretary of state shall provide the information to the county clerk and recorder of the county in which the elector resides.

(b) The county clerk and recorder of the county in which the elector resides shall change the registration record of the elector to reflect the change of name and address, mark the registration record as "active", and send to the elector's address of record, by forwardable mail, notice of the change, a postage paid preaddressed return form by which the elector may verify or correct the information, and information on how the elector can return a signature or upload a signature electronically if the elector does not have a signature on file.

(c) If the elector returns the form described in subsection (7.5)(b) of this section and indicates that the change was in error, the appropriate county clerk and recorder shall immediately correct the elector's previously updated information in the statewide voter registration database.

(8) After the twenty-day period described in subsection (7) of this section passes, the registration information of a person registered pursuant to this section, including the fact that the person was registered through a voter registration agency, becomes a registration record that must be maintained and made available for public inspection in accordance with section 1-2-227. Information relating to the return of a notice form by a person declining to be registered and information relating to the specific agency at which a person was registered pursuant to this section is not a public record subject to inspection and shall not be used for any purpose other than voter registration statistics.

(9) This section does not preclude the state from complying with its obligations under the federal "National Voter Registration Act of 1993", 52 U.S.C. sec. 20501 et seq., as amended; the federal "Voting Rights Act of 1965", 52 U.S.C. sec. 10101 et seq., as amended; the federal "Help America Vote Act of 2002", 52 U.S.C. sec. 20901 et seq., as amended; or any other applicable federal laws.

Source: L. 2019: Entire section added, (SB 19-235), ch. 329, p. 3052, § 3, effective August 2. **L. 2021:** (4)(c) and (8) amended and (7.5) added, (SB 21-250), ch. 282, p. 1635, § 10, effective June 21.

1-2-502.7. Voter registration agencies - reports - transfer of records for voter registration.

(1) Each state agency that oversees one or more offices designated as voter registration agencies in section 1-2-504 (1)(a) and (1)(b) shall annually provide to the secretary of state a list

with each designated office, the type of services the office provides, and a designated voter registration contact for that office.

(2) Each office designated under subsection (1) of this section shall report to the secretary of state each month the number of people who applied for public assistance or who applied to participate in state-funded programs, the number of voter registration choice forms the office collected, and the number of people who received a voter registration form.

(3) At the earliest practicable time, the office of information technology created in section 24-37.5-103 shall assess which voter registration agencies, as defined in section 1-2-504 (1)(a) and (1)(b), collect sufficient information from applicants for voter registration purposes, and shall report its findings to the secretary of state. Upon a determination by the office of information technology and the secretary of state that a voter registration agency collects the necessary information to register an eligible elector, the office of information technology and the secretary of state shall establish a schedule by which the voter registration agency shall begin providing electronic records regarding eligible electors to the secretary of state. The secretary of state and each county clerk and recorder shall process electronic records received from voter registration agencies under this subsection (3) substantially in accordance with section 1-2-502.5.

Source: L. 2019: Entire section added, (SB 19-235), ch. 329, p. 3054, § 4, effective August 2.

1-2-503. Availability of forms.

The application forms for mail voter registration shall be available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

Source: L. 94: Entire part added, p. 1764, § 21, effective January 1, 1995.

1-2-504. Voter registration agencies.

(1) The following offices are designated as voter registration agencies:

(a) All offices that provide public assistance;

(b) All offices that provide state-funded programs primarily engaged in providing services to persons with disabilities;

(c) All recruitment offices of the armed forces of the United States; and

(d) Any other federal, state, local government, or nongovernment office that chooses to provide voter registration service or applications.

(2) The following agencies may provide application forms for mail voter registration:

(a) All offices of county clerk and recorders;

(b) All federal post offices; and

(c) Any other federal, state, local government, or nongovernment office that chooses to provide voter registration service or applications.

Source: L. 94: Entire part added, p. 1764, § 21, effective January 1, 1995.

1-2-505. Services at voter registration agencies - services to persons with disabilities.

(1) At each voter registration agency, the following services shall be made available with each application made in person for service or assistance and with each recertification, renewal, or change of address form relating to the service or assistance:

(a) Distribution of mail voter registration application forms;

(b) Assistance to applicants in completing agency voter registration application forms, unless the applicant refuses such assistance; and

(c) Acceptance of completed agency voter registration application forms for transmittal to the appropriate county clerk and recorder.

(2) If a voter registration agency provides services to a person with a disability at the person's home, the agency shall provide the services described in subsection (1) of this section at the person's home.

Source: L. 94: Entire part added, p. 1764, § 21, effective January 1, 1995.

1-2-506. Prohibitions.

(1) A person who provides the services described in section 1-2-505 shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display any political preference or party allegiance;

(c) Make any statement to an applicant or take any action, the purpose or effect of which is to discourage the applicant from registering to vote;

(d) Make any statement to an applicant or take any action, the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

(2) A person who provides the services described in section 1-2-505 shall ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(3) No information relating to a declination to register to vote made in connection with an application completed at a voter registration agency may be used for any purpose other than voter registration.

Source: L. 94: Entire part added, p. 1765, § 21, effective January 1, 1995.

1-2-507. Transmittal of voter registration applications - when.

(1) Except as provided in subsection (2) of this section, a completed agency registration application accepted at a voter registration agency shall be transmitted to the county clerk and recorder not later than five days after the date of acceptance; except that, within twenty-two days before an election, a voter registration agency must transmit completed voter registration applications on a daily basis.

(2) Within eight days before an election, a voter registration agency shall accept the application and immediately inform the applicant that he or she must go to a voter service and polling center in order to vote in that election.

Source: L. 94: Entire part added, p. 1765, § 21, effective January 1, 1995. **L. 95:** Entire section amended, p. 826, § 20, effective July 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 699, § 24, effective May 10. **L. 2014:** (2) amended, (SB 14-161), ch. 160, p. 559, § 9, effective May 9. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 574, § 23, effective May 18.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-508. Receipt of voter registration applications - effective dates - legislative intent.

(1) The county clerk and recorder shall ensure that any eligible applicant is registered to vote and has been mailed a ballot in an election if:

(a) In the case of registration with a driver's license application, the valid voter registration application of the applicant is accepted by a driver's license examination facility no later than eight days before the date of an election;

(a.5) In the case of registration through the online voter registration system established pursuant to section 1-2-202.5, the application is submitted no later than the eighth day before the date of the election;

(b) In the case of registration by mail, the valid voter registration application of the applicant is postmarked not later than eight days before the date of the election;

(c) In the case of registration by mail where the application has no postmark, the date of registration is the date that the application is received;

(d) In the case of registration at a voter registration agency, the valid agency voter registration application of the applicant is accepted at the voter registration agency not later than eight days before the date of the election;

(e) In the case of registration through a voter registration drive, the valid voter registration is submitted no later than twenty-two days before an election; and

(f) In any other case, the valid voter registration application of the applicant is received by the appropriate county clerk and recorder not later than eight days before the date of the election, except as otherwise permitted by section 1-2-217.7.

(2) (a) The effective date of a voter registration application or change of registration that is completed at the office of the county clerk and recorder or in the presence of a deputy registrar is the date received by the office of the county clerk and recorder or by the registrar.

(b) The effective date of an application or change of registration that is completed at a driver's license examination facility or voter registration agency is the date that the application or change is accepted by the facility or agency.

(c) The effective date of a voter registration application or change of registration that is completed by a mail registration form is the date of the postmark or receipt by the county clerk and recorder, whichever is earlier.

(d) The effective date of a voter registration application or change of registration made at a voter service and polling center pursuant to section 1-2-217.7 is the date that the application is made by the elector.

(3) (a) (I) Notwithstanding the voter registration application deadlines contained in this section and this code, a county clerk and recorder shall accept and process a voter registration application received after the deadlines specified in subsection (1) of this section, including applications received through the online voter registration system. Any person who submits a voter registration application within eight days of an election shall be informed that he or she will not receive a mail ballot but may either pick up a ballot in person or vote in person at a voter service and polling center.

(II) It is the general assembly's intent, in enacting this paragraph (a), to use modern technology to maximize the efficiency of operations at voter service and polling centers by allowing the continuous processing of voter registration applications for eligible persons in accordance with this article.

(b) If a voter has already cast a ballot in an election, and submits an application after casting the ballot, the county clerk and recorder shall defer processing that voter's application until after the close of the election.

(c) Commencing the fifteenth day before an election through the eighth day before an election, the county clerk and recorder shall process all voter registration applications and updates to voter registration records that require a new ballot to be sent to an elector within two business days of the receipt of the application or update by the county clerk.

Source: L. 94: Entire part added, p. 1765, § 21, effective January 1, 1995. **L. 95:** (1) amended and (2) added, p. 826, § 21, effective July 1. **L. 97:** (1)(c) amended, p. 474, § 13, effective July 1. **L. 99:** (1)(a) and (1)(c) amended, p. 759, § 13, effective May 20. **L. 2013:** (1)(a), (1)(b), (1)(d), (1)(e), and (2) amended and (1)(a.5) added, (HB 13-1303), ch. 185, p. 699, § 25, effective May 10. **L. 2014:** (1)(a), (1)(b), (1)(c), (1)(d), and (1)(e) amended; and (1)(f) and (3) added, (SB 14-161), ch. 160, p. 559, § 10, effective May 9. **L. 2020:** IP(1) amended and (3)(c) added, (HB 20-1313), ch. 260, p. 1254, § 1, effective September 14.

Cross references: In 2013, subsections (1)(a), (1)(b), (1)(d), (1)(e), and (2) were amended and subsection (1)(a.5) was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-509. Reviewing voter registration applications - notification.

(1) Upon receipt of an application, if the applicant resides in a county other than the county receiving the application, the county clerk and recorder shall within five days transmit the

application to the clerk and recorder of the applicant's county; except that, if the application is received thirty days or less before an election, the application shall be transmitted as expeditiously as possible.

(2) Upon receipt of an application, the county clerk and recorder shall verify that the application is complete and accurate. If the application is complete and accurate, the county clerk and recorder shall notify the applicant of the registration. If the application is not complete or is inaccurate, the county clerk and recorder shall notify the applicant, stating the additional information required.

(3) (a) Within ten business days after receipt of the application, the county clerk and recorder shall notify each applicant of the disposition of the application by nonforwardable mail and proceed in accordance with paragraph (b) of this subsection (3).

(b) (I) If within twenty business days after receipt of the application the notification is returned to the county clerk and recorder as undeliverable, the applicant shall not be registered.

(II) If the notification is not returned within twenty business days as undeliverable, then the applicant shall be deemed registered as of the date of the application; except that, if the applicant was notified that the application was not complete, then the applicant is deemed registered as of the date of the application if the additional information is provided at any time prior to the actual voting. If such applicant does not provide the additional information necessary to make his or her application complete and accurate within twenty-four months after notification is sent pursuant to subsection (2) of this section, the applicant must reapply in order to be registered.

(III) If the notification is returned to the county clerk and recorder as undeliverable after twenty days after receipt of the application, the county clerk and recorder shall mark the applicant's registration record "Inactive" and send a confirmation card.

(4) This section does not apply to voter registrations received pursuant to section 1-2-213, 1-2-213.3, or 1-2-502.5.

Source: L. 94: Entire part added, p. 1766, § 21, effective January 1, 1995. **L. 95:** (2) and (3) amended, p. 827, § 22, effective July 1. **L. 2005:** (3) amended, p. 1396, § 9, effective June 6; (3) amended, p. 1431, § 9, effective June 6. **L. 2012:** (3) amended, (HB 12-1292), ch. 181, p. 678, § 6, effective May 17. **L. 2016:** (3) amended, (HB 16-1093), ch. 126, p. 360, § 4, effective April 21. **L. 2019:** (4) added, (SB 19-235), ch. 329, p. 3057, § 10, effective August 2.

1-2-510. Public disclosure of voter registration activities.

(1) The secretary of state shall maintain for at least two years and shall make available for public inspection and copying at a reasonable cost, all records concerning the implementation of

programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that the records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to subsection (1) of this section shall include lists of the names and addresses of all persons to whom confirmation notices are sent and information concerning whether or not each person has responded to the notice as of the date that inspection of the records is made.

(3) The secretary of state is also responsible for filing any reports or information concerning the implementation of the federal "National Voter Registration Act of 1993", 52 U.S.C. sec. 20501 et seq., with the federal election commission as may be required.

Source: L. 94: Entire part added, p. 1766, § 21, effective January 1, 1995. **L. 97:** (2) amended, p. 475, § 14, effective July 1. **L. 2016:** (3) amended, (SB 16-142), ch. 173, p. 574, § 24, effective May 18; (3) amended, (SB 16-189), ch. 210, p. 754, § 4, effective June 6.

Editor's note: Amendments to subsection (3) by SB 16-142 and SB 16-189 were harmonized.

1-2-511. Prosecutions of violations.

(1) Any person who believes a violation of this part 5 has occurred may file a written complaint no later than sixty days after the date of the violation with the secretary of state. If the secretary of state determines, after a hearing, that the violation has occurred, he or she shall so notify the attorney general, who may institute a civil action for relief, including a permanent or temporary injunction, a restraining order, or any other appropriate order, in the district court. Upon a proper showing that such person has engaged or is about to engage in any prohibited acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by the court. If, within one hundred twenty days after a complaint is filed with the secretary of state, no civil action for relief is instituted by the attorney general, the complainant shall have a private right of action based on an alleged violation of this part 5 and may institute a civil action in district court for any appropriate remedy. Any such action shall be filed within one year from the date of the alleged violation.

(2) Unless a person intentionally takes voluntary action to register to vote knowing that he or she is not eligible to register, the transfer of the person's electronic record by a voter registration agency in accordance with section 1-2-213.3 or 1-2-502.5 does not constitute the completion of a voter registration form by that person. If such a registration is processed by the state, it is

presumed to have been officially authorized by the state and the person is not subject to any penalty under this code.

Source: L. 94: Entire part added, p. 1767, § 21, effective January 1, 1995. **L. 2019:** Entire section amended, (SB 19-235), ch. 329, p. 3054, § 5, effective August 2.

PART 6

CANCELLATION OF REGISTRATION

Editor's note: This part 6 was added with relocations in 1997 containing relocated provisions of some sections formerly located in parts 2 and 3 of this article. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

1-2-601. Withdrawal of registration.

At any time that registration is permitted in the county clerk and recorder's office, any person who desires to withdraw or cancel his or her own registration may do so by filing with the county clerk and recorder a self-affirmation of withdrawal of registration, and the self-affirmation shall be used as the record of evidence to cancel the elector's registration record.

Source: L. 97: Entire part added with relocations, p. 465, § 1, effective July 1.

Editor's note: This section is similar to former § 1-2-214 as it existed prior to 1997.

1-2-602. Deceased electors.

(1) As soon as is practicable after the end of each month, the state registrar of vital statistics shall furnish the secretary of state with a report of all persons eighteen years of age or older who have died during the previous month. To the extent possible, persons on the report shall be identified by name, county of residence, date of birth, and social security number.

(2) The secretary of state shall forward to each county clerk and recorder monthly the information received from the state registrar of vital statistics concerning persons registered to vote in the county who have died.

(3) The county clerk and recorder shall cancel the registration of any elector who is deceased and of whose death the county clerk and recorder has received notice pursuant to subsection (2) of this section.

(3.5) The secretary of state may by electronic means cancel the registration of any elector who is deceased and of whose death the secretary has received notice pursuant to subsection (1) of this section.

(4) The county clerk and recorder shall cancel the registration of any elector who is deceased when the county clerk and recorder receives written notice of the fact. The written notice shall be signed by a family member of the deceased. If the county clerk and recorder has sufficient proof that an elector is deceased, cancellation may be made without such written notice.

Source: L. 97: Entire part added with relocations, p. 465, § 1, effective July 1. **L. 2003:** (3.5) added, p. 2077, § 13, effective May 22.

Editor's note: This section is similar to former §§ 1-2-302 (4) and (7) and 1-2-226 (1) and (2) as they existed prior to 1997.

1-2-603. Notification that elector has moved and registered in different county.

(1) If the elector registers to vote in another county, the county clerk and recorder of the elector's new county of residence shall transfer the elector's registration record from the old county if the elector provides a name and at least two of the following identifiers that match the elector's prior registration record: Date of birth, prior residence, driver's license or identification card number, or the last four digits of the elector's social security number.

(a) and (b) (Deleted by amendment, L. 2026.)

(c) The county clerk and recorder of the county of prior residence may send notice to the elector by forwardable mail to the elector's address of record. Any such notice shall have a returnable portion that has the return postage prepaid and is preaddressed to the sending county clerk and recorder, and shall include an area for the elector to indicate if the elector has moved to another county and wishes to have their registration record transferred from the old county.

(2) If a county clerk and recorder receives a notice from the secretary of state or from an election official in another state that the elector has registered to vote in another state, the county clerk and recorder of the county of prior residence shall cancel the registration record if the name and at least two of the following identifiers match: Date of birth, prior residence, driver's license or identification card number, or last four digits of social security number.

Source: L. 97: Entire part added with relocations, p. 466, § 1, effective July 1. **L. 2009:** (1) amended, (HB 09-1018), ch. 158, p. 683, § 5, effective August 5. **L. 2010:** (2) amended, (HB 10-1116), ch. 194, p. 832, § 7, effective May 5. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1489, § 12, effective June 1.

Editor's note: This section is similar to former § 1-2-303 (2) and (3) as it existed prior to 1997.

1-2-604. Cancellation of electors with multiple registrations.

(1) Based upon an examination of the secretary of state's master lists of registered electors, each county clerk and recorder shall generate a list containing the name of each elector who is registered in more than one precinct in the state and shall cancel from the county's master lists of registered electors the name of the elector wherever it appears, except where it corresponds to the elector's most recent date of registration.

(2) (Deleted by amendment, L. 2009, (HB 09-1018), ch. 158, p. 684, § 6, effective August 5, 2009.)

(3) (a) The county clerk and recorder may not cancel the registration record pursuant to subsection (1) of this section unless there is a match in the county's registration records and the statewide voter registration database with respect to, at a minimum, the elector's name and at least two of the following identifiers: Date of birth, prior residence, driver's license or identification card number, or the last four digits of the elector's social security number.

(I) and (II) (Deleted by amendment, L. 2026.)

(b) If the county clerk and recorder is not able to cancel the registration record pursuant to paragraph (a) of this subsection (3), the county clerk and recorder shall send a notice to the elector whose record the clerk and recorder intends to cancel. The notice shall be sent to that elector's address of record, shall have a returnable portion that has the return postage prepaid and that is preaddressed to the sending county clerk and recorder, and shall include an area for the elector to indicate if the elector has moved to another county and wishes to have his or her registration record transferred from the old county.

Source: L. 97: Entire part added with relocations, p. 466, § 1, effective July 1. **L. 2009:** Entire section amended, (HB 09-1018), ch. 158, p. 684, § 6, effective August 5. **L. 2026:** (3)(a) amended, (HB 26-1113), ch. 267, p. 1490, § 13, effective June 1.

Editor's note: This section is similar to former §§ 1-2-302 (5)(b) and 1-2-304 (1) as they existed prior to 1997.

1-2-605. Canceling registration - procedures.

(1) (a) Correspondence by mail from the county clerk and recorder to a registered elector of a county must include, at a minimum, the elector's name and address.

(b) (I) Except as provided in subparagraph (II) of this paragraph (b), if correspondence described in paragraph (a) of this subsection (1) is returned by the United States postal service as undeliverable, the county clerk and recorder shall mark the elector's registration record "Inactive" and mail the elector a confirmation card.

(II) If correspondence described in paragraph (a) of this subsection (1) is returned by the United States postal service as undeliverable and the elector's registration record is already marked "Inactive", the county clerk and recorder shall not modify the record and may not mail the elector a confirmation card.

(c) If an elector's confirmation card is not returned to the county clerk and recorder as undeliverable, the county clerk and recorder shall not change the elector's registration record.

(2) Repealed.

(3) Any registered elector whose registration record is marked "Inactive" is eligible to vote in any election where registration is required if the elector meets all other requirements.

(4) A county clerk and recorder shall mark an "Inactive" elector's registration record as "Active" if:

(a) The elector updates his or her registration information; or

(b) The elector votes in an election conducted by a county clerk and recorder or an election for which the registration information has been provided to the clerk and recorder; or

(c) (Deleted by amendment, L. 2013.)

(d) The elector completes, signs, and returns a confirmation card or change of address card.

(5) If an active elector's mail ballot is returned to the county clerk and recorder by the United States postal service as undeliverable, the county clerk and recorder shall mark the elector's registration record "Inactive" and send to the elector a confirmation card by which the elector may verify or correct the address information. If the elector verifies that he or she has moved within the state, the county clerk and recorder shall forward the address information to the county clerk and recorder of the county in which the voter resides to update the elector's

registration record with the new address. If the elector verifies that he or she has moved outside the state, the county clerk and recorder shall cancel the elector's registration record. If the elector fails to respond, the county clerk and recorder shall leave the registration record of that elector marked "Inactive".

(6) (Deleted by amendment, L. 2013.)

(7) If an elector whose registration record is marked "Inactive" fails to update their registration record, fails to respond to any confirmation card, and fails to vote in any election conducted by the county clerk and recorder during the time period that includes two consecutive general elections since the elector's registration record was marked "Inactive", the secretary of state shall cancel the elector's registration record. Nothing in this section allows an elector's registration record to be canceled solely for failure to vote or prohibits the secretary of state from requesting assistance from a county clerk and recorder to carry out the duties described in this subsection (7).

(8) No later than ninety days following any general election, the county clerk and recorder shall furnish to the county chairperson of each major political party a list containing the names, addresses, precinct numbers, and party affiliations of the electors whose registration records were canceled pursuant to this section.

(9) to (11) (Deleted by amendment, L. 2013.)

Source: L. 97: Entire part added with relocations, p. 467, § 1, effective July 1. **L. 99:** (6)(a), (8), and (10) amended, p. 760, § 14, effective May 20; (1)(a), (5), (6)(b), and (7) amended, p. 279, § 4, effective August 4. **L. 2005:** (10) amended, p. 1396, § 10, effective June 6; (10) amended, p. 1431, § 10, effective June 6. **L. 2007:** (1)(a), (4)(c), and (6)(b) amended, p. 1777, § 11, effective June 1. **L. 2008:** (1)(a)(I) amended, p. 1875, § 1, effective June 2; (2) amended and (11) added, pp. 1742, 1743, §§ 1, 3, effective July 1. **L. 2009:** (5) amended, (HB 09-1216), ch. 165, p. 728, § 2, effective August 5. **L. 2010:** (7) amended, (HB 10-1116), ch. 194, p. 832, § 8, effective May 5. **L. 2012:** (6)(b) and (8) amended, (HB 12-1292), ch. 181, p. 678, § 7, effective May 17. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 700, § 26, effective May 10. **L. 2016:** (1)(a) and (1)(b) amended and (2) repealed, (HB 16-1093), ch. 126, p. 360, § 5, effective April 21. **L. 2026:** (7) amended, (HB 26-1113), ch. 267, p. 1490, § 14, effective June 1.

Editor's note: This section is similar to former § 1-2-224 as it existed prior to 1997.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Law reviews. For note, "Purged Voter Lists", see 44 Den. L.J. 279 (1967).

Annotator's note. Since § 1-2-605 is similar to § 1-2-224 as it existed prior to the 1997 amendment to article 2 of title 1, which resulted in the relocation of provisions, a relevant case decided under former provisions similar to that section has been included in the annotations to this section.

The provision for purging the registration book does not violate the equal protection clause of amendment 14, U.S. Const. Duprey v. Anderson, 184 Colo. 70, 518 P.2d 807 (1974).

Nor requirements of due process. The requirements of due process of law as set forth in § 25 of art. II, Colo. Const., and in amendment 14, U.S. Const., are not violated by the provision as it applies to persons whose names have been removed from the registration books. Duprey v. Anderson, 184 Colo. 70, 518 P.2d 807 (1974).

Purging procedure does not result in an invidious discrimination between qualified registered electors who exercise their right to vote in general elections and qualified registered electors who do not vote. Duprey v. Anderson, 184 Colo. 70, 518 P.2d 807 (1974).

Purging registration book is exclusively an administrative adjunct which is necessary in order to provide for the purity of elections and to guard against abuses. Duprey v. Anderson, 184 Colo. 70, 518 P.2d 807 (1974).

Prevention of fraud and other abuses is state interest in purging books. Any person who does not reregister may be presumed to be deceased, to have moved and registered at a new address, or to have no desire to vote at a forthcoming election. Thus, the election list becomes more authentic and is not as susceptible to fraudulent voting practices or other abuses of the franchise. This is the legitimate state interest involved in the purging procedure. Duprey v. Anderson, 184 Colo. 70, 518 P.2d 807 (1974).

Qualified electors whose names were purged from registration books were in no way barred from voting, for to vote, they are merely required to reregister. Duprey v. Anderson, 184 Colo. 70, 518 P.2d 807 (1974).

1-2-606. Cancellation by reason of criminal conviction in federal court.

(1) If an elector whose residence is in the state of Colorado is convicted of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the secretary of state of Colorado. The notice shall include the name of the offender, the offender's age and residence address, the date of entry of the judgment, a description of the offenses of which the offender was convicted, and the sentence imposed by the court. The United States attorney shall additionally give the secretary of state written notice of the vacation of the judgment if the conviction is overturned.

(2) The secretary of state shall forward the information received pursuant to this section to the applicable county clerk and recorder of the county in which the offender resides.

(3) The county clerk and recorder shall cancel the registration of the elector as of the date of receipt of the information from the secretary of state, and the registration shall remain canceled until the offender reregisters to vote.

Source: L. 97: Entire part added with relocations, p. 470, § 1, effective July 1.

PART 7

VOTER REGISTRATION DRIVES

1-2-701. Registration of voter registration drive - training - rules.

(1) Before commencing a voter registration drive, a voter registration drive organizer shall file a statement of intent to conduct a voter registration drive with the secretary of state in the manner prescribed by the secretary of state by rules promulgated in accordance with article 4 of title 24, C.R.S. The voter registration drive organizer shall designate on the statement the agent of the voter registration drive, who shall be a resident of the state.

(2) A voter registration drive organizer and a voter registration drive circulator shall fulfill the training requirements established by the secretary of state by rules promulgated in accordance with article 4 of title 24, C.R.S.

(3) (a) Prior to circulating any voter registration applications, a person intending to work as a circulator on a voter registration drive shall complete the training provided by the voter registration drive organizer and sign an affirmation affirming that he or she fulfilled the training requirements for circulators.

(b) A voter registration drive organizer shall maintain and make available to the secretary of state records evidencing the training completed by its circulators.

Source: L. 2005: Entire part added, p. 1396, § 11, effective June 6; entire part added, p. 1431, § 11, effective June 6. **L. 2016:** (2) amended and (3) added, (SB 16-107), ch. 42, p. 102, § 1, effective March 23.

1-2-702. Conducting a voter registration drive.

(1) A voter registration drive organizer shall use the form of the voter registration application approved by the secretary of state by rule.

(2) A circulator working on a voter registration drive shall collect a voter registration application distributed by the voter registration drive and offered by an elector and deliver the application to the voter registration drive organizer. A voter registration drive organizer shall deliver the application to the county clerk and recorder of the county in which the elector resides according to the address indicated on the application. The application shall be delivered no later than fifteen business days after the application is signed, or, if the application is sent by mail, it shall be postmarked no later than fifteen business days after the application is signed; except that an application shall be delivered or mailed no later than the registration deadline set forth in section 1-2-201 (3).

(2.5) Within twenty-two days prior to an election, before accepting for delivery a voter registration application form from any elector, a circulator working on a voter registration drive shall inform the elector that, to vote in the upcoming election, the elector must submit an application for registration at a voter service and polling center or the elector's county clerk and recorder's office or through the online voter registration system established pursuant to section 1-2-202.5.

(3) A voter registration drive organizer shall not compensate a circulator working on the voter registration drive based on the number of voter registration applications the circulator distributes or collects.

Source: L. 2005: Entire part added, p. 1397, § 11, effective June 6; entire part added, p. 1432, § 11, effective June 6. **L. 2006:** (2) amended, p. 2030, § 7, effective June 6. **L. 2007:** (2) amended, p. 1970, § 7, effective August 3. **L. 2013:** (2) amended, (HB 13-1303), ch. 185, p. 703, § 27, effective May 10. **L. 2016:** (2.5) added, (SB 16-107), ch. 42, p. 102, § 2, effective March 23.

Cross references: In 2013, subsection (2) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-2-703. Violations - penalties.

(1) A voter registration drive organizer that conducts a voter registration drive without filing the statement of intent with the secretary of state in accordance with section 1-2-701 or without maintaining a designated agent in the state or that uses a voter registration application form other than the form approved by the secretary of state by rule shall be punished by a fine not to exceed five hundred dollars.

(2) A voter registration drive organizer that fails to fulfill the training requirements established by the secretary of state in accordance with section 1-2-701 (2) shall be punished by a fine not to exceed five hundred dollars.

(3) (a) and (b) Repealed.

(c) A voter registration drive organizer that intentionally fails to deliver a voter registration application to the proper county clerk and recorder in the manner and time prescribed by section 1-2-702 (2) shall be punished by a fine not to exceed five thousand dollars.

(4) A voter registration drive organizer that compensates a circulator working on a voter registration drive based on the number of voter registration applications the circulator distributes or collects shall be punished by a fine not to exceed one thousand dollars.

Source: L. 2005: Entire part added, p. 1397, § 11, effective June 6; entire part added, p. 1432, § 11, effective June 6. **L. 2006:** (3) amended, p. 2031, § 8, effective June 6. **L. 2007:** Entire section amended, p. 1970, § 8, effective August 3. **L. 2012:** (3)(a) and (3)(b) repealed, (HB 12-1292), ch. 181, p. 678, § 8, effective May 17.

ARTICLE 3

Political Party Organization

1-3-100.3. Definitions.
1-3-101. Party affiliation required - residence.
1-3-102. Precinct caucuses.
1-3-103. Party committees.
1-3-104. Political party vacancy committees.

1-3-105. Powers of central committees.
1-3-106. Control of party controversies.
1-3-107. Party platforms.
1-3-108. Use of party name.

1-3-100.3. Definitions.

As used in this article:

(1) "Political party" means a major political party as defined in section 1-1-104 (22).

Source: L. 98: Entire section added, p. 256, § 3, effective April 13.

1-3-101. Party affiliation required - residence.

(1) (a) In order to vote at any precinct caucus, assembly, or convention of a political party, the elector must be a resident of the precinct for twenty-two days, must be registered to vote no later than twenty-two days before the caucus, assembly, or convention, and must be affiliated with the political party holding the caucus, assembly, or convention for at least twenty-two days as shown in the statewide voter registration system; except that any registered elector who has attained the age of eighteen years or who has become a naturalized citizen during the twenty-two days immediately preceding the meeting may vote at any caucus, assembly, or convention even though the elector has been affiliated with the political party for less than twenty-two days. If allowed by a political party's rules, a preregistrant may vote at any caucus, assembly, or convention if the preregistrant has been a resident of the precinct for twenty-two days before the caucus, assembly, or convention, and has been affiliated with the political party holding the caucus, assembly, or convention for at least twenty-two days as shown in the statewide voter registration system; except that a preregistrant who preregistered within the twenty-two days immediately preceding the meeting may vote at any caucus, assembly, or convention even though the preregistrant has been affiliated with the political party for less than twenty-two days.

(b) If an elector desires to vote at a precinct caucus but the elector's eligibility cannot be verified upon examination of the list of registered electors provided in accordance with subsection (3) of this section, the elector shall complete an affidavit attesting to the facts establishing the elector's eligibility. The secretary of state shall promulgate rules prescribing the form and content of the affidavit.

(2) Notwithstanding subsection (1) of this section and section 1-2-101 (1)(b), an elector who moves from the precinct where registered during the twenty-one days prior to any caucus may

participate in and vote at the caucus in the precinct of the elector's former residence but shall not be eligible for election as a delegate or for nomination as a precinct committeeperson in the former precinct.

(3) (a) No later than twenty-one days prior to the date of the precinct caucus, or eighteen days prior to the date of the precinct caucus in a year in which a political party's precinct caucus is held on the first Saturday following the presidential primary election, the county clerk and recorder shall furnish without charge to each major political party in the county a list of the registered electors in the county who are affiliated with that political party. Notwithstanding section 1-2-227 (2), the list must include preregistrants whose information is otherwise confidential.

(b) Repealed.

Source: L. 80: Entire article R&RE, p. 315, § 1, effective January 1, 1981. **L. 81:** Entire section amended, p. 302, § 1, effective April 29; (1) amended, p. 291, § 5, effective June 19. **L. 91:** Entire section amended, p. 618, § 28, effective May 1. **L. 92:** Entire article amended, p. 664, § 3, effective January 1, 1993. **L. 94:** (3) added, p. 1153, § 11, effective July 1; entire section amended, p. 1767, § 22, effective January 1, 1995. **L. 95:** (1) and (2) amended, p. 828, § 23, effective July 1. **L. 99:** Entire section amended, p. 760, § 15, effective May 20. **L. 2002:** (3) amended, p. 131, § 1, effective March 27. **L. 2007:** (3)(a) amended, p. 1988, § 2, effective August 3. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 574, § 25, effective May 18. **L. 2018:** (1), (2), and (3)(a) amended, (SB 18-233), ch. 262, p. 1606, § 8, effective May 29. **L. 2019:** (1) amended, (HB 19-1278), ch. 326, p. 3009, § 12, effective August 2. **L. 2020:** (1)(a) and (3)(a) amended, (HB 20-1289), ch. 2, p. 3, § 1, effective March 3. **L. 2021:** (1)(a) and (3)(a) amended, (SB 21-250), ch. 282, p. 1636, § 11, effective June 21.

Editor's note: (1) This section is similar to former § 1-14-101 as it existed prior to 1980.

(2) The amendment to subsection (3) by House Bill 94-1286 was harmonized with the amendment to this section by House Bill 94-1294.

(3) Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective July 1, 2002. (See L. 2002, p. 131.)

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-3-102. Precinct caucuses.

(1) (a) (I) Precinct committeepersons and delegates to county assemblies must be elected at precinct caucuses that must be held in a public place or in a private home that is open to the public during the caucus in or proximate to each precinct at a time and place to be fixed by the county central committee or executive committee of each political party. The precinct caucuses must be held in each even-numbered year on a date no earlier than the first Tuesday in March and no later than the first Saturday after the first Tuesday in March. The county central committee shall notify the secretary of state and the clerk and recorder of each county in the state of the precinct caucus date on or before January 2 of the year in which the election is held.

(II) and (III) Repealed.

(b) Any private home in which a precinct caucus is to be held shall be accessible to persons with disabilities in accordance with the rules of the county central committee or executive committee of each political party. The rules shall specify guidelines for determining whether a private home is accessible to persons with disabilities for purposes of this subsection (1) and for determining controversies regarding such accessibility.

(2) (a) The participants at the precinct caucus shall also elect two precinct committeepersons. Any person eighteen years of age or older, or a person sixteen years of age or older who is preregistered to vote, may be a candidate for the office of precinct committeeperson if he or she has been a resident of the precinct for twenty-two days and has been affiliated with the political party holding the precinct caucus for a period of at least twenty-two days preceding the date of the precinct caucus; except that any person who has attained the age of eighteen years, has attained the age of sixteen years and has preregistered to vote, or who has become a naturalized citizen during the twenty-two days immediately preceding the precinct caucus may be a candidate for the office of precinct committeeperson even though he or she has been affiliated with the political party for less than twenty-two days as shown in the statewide voter registration system. The two people receiving the highest number of votes at the caucus for precinct committeeperson are elected as the precinct committeepersons of the precinct. If two or more candidates for precinct committeeperson receive an equal and the second highest number of votes, or if three or more candidates receive an equal and the highest number of votes, the election must be determined by lot by those candidates. All disputes regarding the election of precinct committeepersons are determined by the credentials committees of the respective party assemblies. The names of the committeepersons elected must be certified to the county assembly of the political party by the officers of the caucus. The presiding officer and secretary of the county assembly shall file a certified list of the names and addresses, by precinct, of those persons elected as precinct committeepersons with the county clerk and recorder within four days after the date of the county assembly.

(b) Within ten days after the boundaries of an existing precinct are changed or a new precinct is created, the members of the party county central committee vacancy committee shall select members to fill the vacancies for precinct committeepersons.

(c) Repealed.

(d) The person elected as committeeperson at the caucus shall assume the office immediately following the caucus. Causes for removal of the elected committeeperson from office shall include, but not be limited to, the following:

(I) In the case of removal by the credentials committee at the county assembly, the person does not meet the qualifications for committeeperson;

(II) In the case of removal by the county central committee, the person has moved from the precinct or has changed affiliation.

(III) Repealed.

(3) and (4) Repealed.

(5) Notwithstanding any provision to the contrary, a participant at a precinct caucus may participate remotely, including casting the participant's vote by email, mail, telephone, or through an internet-based application if allowed by the party's rules.

Source: L. 80: Entire article R&RE, p. 315, § 1, effective January 1, 1981. **L. 81:** (2)(a) and (2)(b) amended, (2)(c) and (2)(d) added, and (3) and (4) repealed, pp. 304, 309, §§ 1, 12, effective January 1, 1982. **L. 82:** (2)(a) amended, p. 216, § 1, effective February 19. **L. 85:** (1) amended, p. 248, § 3, effective July 1. **L. 90:** (1) amended, p. 303, § 3, effective June 8. **L. 91:** (2)(a) amended, p. 618, § 29, effective May 1. **L. 92:** Entire article amended, p. 665, § 3, effective January 1, 1993. **L. 93:** (2)(c) and (2)(d)(III) repealed, p. 1404, § 28, effective July 1. **L. 94:** (2)(a) amended, p. 1768, § 23, effective January 1, 1995. **L. 95:** (2)(a) amended, p. 828, § 24, effective July 1. **L. 98:** (1) amended, p. 633, § 4, effective May 6. **L. 99:** (1) and (2)(a) amended, p. 761, § 16, effective May 20; (1) amended, p. 100, § 1, effective August 4; (2)(d)(II) amended, p. 159, § 6, effective August 4. **L. 2001:** (1) amended, p. 1001, § 2, effective August 8. **L. 2002:** (1)(a) amended, p. 132, § 2, effective March 27. **L. 2005:** (1)(a)(I) amended, p. 1398, § 12, effective June 6; (1)(a)(I) amended, p. 1433, § 12, effective June 6. **L. 2007:** (1)(a)(I) amended and (1)(a)(III) added, p. 1988, § 3, effective August 3. **L. 2011:** (1)(a)(I) amended, (SB 11-189), ch. 243, p. 1062, § 2, effective May 27. **L. 2016:** (2)(a) amended, (SB 16-142), ch. 173, p. 574, § 26, effective May 18. **Initiated 2016:** (1)(a)(III) amended, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2820. **L. 2019:** (1)(a)(III) amended, (HB 19-1278), ch. 326, p. 3009, § 13, effective August 2. **L. 2020:** (2)(a) amended, (HB 20-1289), ch. 2, p. 3, § 2, effective March 3. **L. 2021:** (1)(a)(I) and (2)(a)

amended, (1)(a)(III) repealed, and (5) added, (SB 21-250), ch. 282, p. 1637, § 12, effective June 21.

Editor's note: (1) Subsection (1) is similar to former § 1-14-205 (1), and subsections (2) to (4) are similar to former § 1-14-206, as they existed prior to 1980.

(2) Amendments to subsection (1) by Senate Bill 99-025 and Senate Bill 99-027 were harmonized.

(3) Subsection (1)(a)(II)(B) provided for the repeal of subsection (1)(a)(II), effective July 1, 2002. (See L. 2002, p. 132.)

(4) This section was amended by initiative in 2016. The vote count on Proposition 107 at the general election held November 8, 2016, was as follows:

FOR: 1,701,599

AGAINST: 953,246

Cross references: (1) For the declaration of the people of Colorado in Proposition 107, see section 1 on p. 2815, Session Laws of Colorado 2017.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Applied in Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982).

1-3-103. Party committees.

(1) (a) At its own precinct caucus, each political party shall elect two committeepersons for each election precinct as provided in section 1-3-102. Each committeeperson shall hold the position for a term of two years after the date of the election, and each shall serve until a successor is duly elected or appointed and commences the term of office. In case of a vacancy in the office of precinct committeeperson, the vacancy may be filled by the members of the county central committee vacancy committee. If the county central committee vacancy committee does not fill the vacancy within thirty days of the vacancy occurring, the vacancy may be filled by the recommendation of the county chair, subject to ratification by the county central committee. If the county chair does not fill the vacancy within sixty days of the vacancy occurring, the vacancy

may be filled by recommendation of the state chair, subject to ratification by the county central committee. The person selected must be a resident of the precinct in which the vacancy occurred. When a vacancy in the office of precinct committeeperson is filled in accordance with this section, the newly appointed precinct committeeperson shall not participate in the vacancy committee process described in section 1-12-203 to fill a vacancy in the general assembly until, at the earliest, ninety-one days after the newly appointed precinct committeeperson was appointed.

(b) (I) All of the precinct committeepersons of the political party in the county, all of the district captains and co-captains, if any, of the political party in the county, and the county party officers selected pursuant to paragraph (c) of this subsection (1), together with the elected county public officials, the state senators and representatives, the United States senators and representatives, the elected state public officials, and the district attorney, who are members of the party and who reside within the county, shall constitute the membership of the county central committee, but the multiple office shall not entitle a person to more than one vote, excluding proxies.

(II) In counties which have adopted a five-commissioner board or county home rule, such county central committee shall be constituted of all the precinct committeepersons from precincts in the county commissioner district, together with the officers selected pursuant to this subparagraph (II), and the state senators and representatives and the district attorney who are members of the party and who reside within the district. Such county central committee shall meet on the same date and select a chairperson and vice-chairperson in the same manner as the county central committee. Such central committee shall select a vacancy committee for the purpose of filling vacancies in the office of county commissioner held by members of the political party.

(c) Each county central committee shall meet on a date which falls between February 1 and February 15 of the odd-numbered years to organize by selecting a chairperson, a vice-chairperson, and a secretary and any other officers provided for in the county rules and shall select a vacancy committee authorized to fill vacancies in the county central committee and the offices held by members of the county central committee and shall select a separate vacancy committee to fill vacancies in the office of county commissioner held by members of the political party.

(d) Except as provided in paragraph (d) of subsection (4), paragraph (b) of subsection (5), and paragraph (b) of subsection (6) of this section, all other central committees shall meet on a date which falls between February 15 and April 1 of the odd-numbered years to organize by electing a chairperson, a vice-chairperson, and a secretary and shall select a vacancy committee authorized to fill vacancies in the central committees and in district and state offices held by members of the political party.

(e) Repealed.

(2) (a) The state central committee shall consist of the chairpersons and vice-chairpersons of the several party county central committees, together with the elected United States senators, representatives in congress, governor, lieutenant governor, secretary of state, state treasurer, attorney general, members of the board of regents, members of the state board of education, state senators, and state representatives, and any additional members as provided for by the state central committee bylaws. Two additional members shall be allowed the political party from each county that polled at least ten thousand votes at the last preceding general election for its candidate for governor or president of the United States. Two additional members shall be allowed for each additional ten thousand votes or major portion thereof so polled in the county. The additional members shall be elected by the county central committee of the political party.

(b) Within ten days after the adjournment of the organizational meeting of the state central committee of any political party, the chairperson and secretary of the state central committee shall file under oath with the secretary of state a full and complete roll of the membership of the state central committee.

(3) (a) The chairpersons and vice-chairpersons of the several party county central committees entirely or partially, who reside within each congressional district, together with the elected congressperson, the elected state board of education member of the party for the congressional district, the elected board of regents member of the party for the congressional district, and the state senators and representatives of the party who reside within the congressional district, shall constitute the party congressional central committee.

(b) If, in any county, or portion thereof, within the congressional district, any political party has polled at least ten thousand votes at the last preceding general election for its candidate for governor or president of the United States, the county shall be entitled to two additional members of the congressional central committee of the political party. Two additional members shall be allowed for each additional ten thousand votes or major portion thereof so polled by the party in the county or portion thereof within the congressional district. The additional members shall reside within the congressional district and shall be elected by those members of the county central committee of the political party who reside within the congressional district. The additional members shall be as equally divided as possible between male and female.

(c) Other members of the congressional central committees may be provided for by the state central committee bylaws.

(d) Each party congressional district central committee shall elect its own chairperson, vice-chairperson, and secretary and shall adopt its own bylaws concerning its conduct, which shall include but need not be limited to requirements for eligibility to vote in the congressional district assembly.

(e) The chairperson of each party congressional district central committee shall fix the time and place of each meeting of the committee, shall fix the time and place of its congressional district assembly, and shall preside over each meeting and the congressional district assembly.

(4) (a) The chairpersons and vice-chairpersons of the several party county central committees, who reside within each judicial district, together with the elected district attorney of the party for the judicial district, shall constitute the judicial district central committee.

(b) If, in any county within the judicial district, any political party has polled at least ten thousand votes at the last preceding general election for its candidate for governor or president of the United States, the county shall be entitled to two additional members of the judicial district central committee of the political party. Two additional members shall be allowed for each additional ten thousand votes or major portion thereof polled in the county. The additional members shall be elected by those members of the county central committee of the political party who reside within the judicial district. The additional members shall be as equally divided as possible between male and female.

(c) Other members of the judicial district central committee may be provided for by the state central committee bylaws.

(d) When a judicial district is comprised of one county or a portion of one county, the judicial district central committee shall consist of all elected precinct committeepersons, the elected district attorney, and the chairperson, the vice-chairperson, and the secretary of the county central committee, all of whom are of the party and reside in that judicial district. The committee shall meet on the same date and select a chairperson and vice-chairperson in the same manner as a party county central committee; except that after the 2025 meeting of any judicial district central committee to select a chairperson and vice-chairperson pursuant to this section, the judicial district central committee shall next meet to organize on a date that falls between February 15 and April 1 of 2029, and shall meet to organize on a date that falls between February 15 and April 1 of every fourth year thereafter.

(e) Each party judicial district central committee shall elect its own chairperson, vice-chairperson, and secretary and shall adopt its own bylaws concerning its conduct, which shall include but need not be limited to requirements for eligibility to vote in the judicial district assembly.

(f) The chairperson of each party judicial district central committee shall fix the time and place of each meeting of the committee, shall fix the time and place of its district assembly, and shall preside over each meeting and the judicial district assembly.

(5) (a) When a state senatorial district is comprised of one or more whole counties or of a part of one county and all or a part of one or more other counties, a state senatorial central committee shall consist of the elected precinct committee persons, the chairpersons, vice-chairpersons, and secretary of the several party county central committees, who reside within the

state senatorial district. If any of those officers do not reside in the state senatorial district, replacements shall be provided who do reside in the district. The state senatorial central committee shall also include the elected state senator of the party for the state senatorial district, the state representatives of the party who reside within the state senatorial district, and a chairperson, vice-chairperson, and secretary of the state senatorial central committee, who may or may not be elected from among, but shall be elected by, the chairpersons, vice-chairpersons, and secretary, the state senator, and the state representatives.

(b) When a state senatorial district is comprised of a portion of one county, a state senatorial central committee shall consist of the elected precinct committeepersons, the elected state senator, the elected state representatives, and a chairperson, vice-chairperson, and secretary of the state senatorial central committee, all of whom are of the party and reside in that senatorial district. In addition, the chairperson, vice-chairperson, and secretary of the party county central committee shall be members of each state senatorial central committee, who reside within the senatorial district. The chairperson, vice-chairperson, and secretary of the state senatorial central committee may or may not be elected from among, but shall be elected by, the state senatorial central committee. The committee shall meet on the same date and select a chairperson and vice-chairperson in the same manner as the party county central committee.

(6) (a) When a state representative district is comprised of one or more whole counties or of a part of one county and all or a part of one or more other counties, a state representative central committee shall consist of the elected precinct committee persons, the chairpersons, vice-chairpersons, and secretary of the several party county central committees, who reside within the state representative district. If any of those officers do not reside in the state representative district, replacements shall be provided who do reside in the district. The state representative central committee shall also include the elected state representative of the party for the state representative district, each state senator of the party who resides within that representative district, and a chairperson, vice-chairperson, and secretary of the state representative central committee, who may or may not be elected from among, but shall be elected by, the chairpersons, vice-chairpersons, and secretary, the state representative, and the state senators.

(b) When a state representative district is comprised of a portion of one county, a state representative central committee shall consist of the elected precinct committeepersons, the elected state representative, the elected state senators, and a chairperson, vice-chairperson, and secretary of the state representative central committee, all of whom are of the party and reside in that state representative district. In addition, the chairperson, vice-chairperson, and secretary of the party county central committee, who reside within the state representative district, shall be members of the state representative central committee. The chairperson, vice-chairperson, and secretary of the state representative district central committee may or may not be elected from among, but shall be elected by, the state representative central committee. The committee shall meet on the same date and select a chairperson and vice-chairperson in the same manner as the party county central committee.

(7) No later than thirty days after the organizational meetings authorized by this section, the secretary of each party central committee prescribed by this section shall file with the state party a list of the names, addresses, and telephone numbers of each of the officers elected, together with a list of the names, addresses, and telephone numbers of the vacancy committee selected. No later than forty-five days after the organizational meetings authorized by this section, the state party shall file with the secretary of state a compiled list of all the officers elected and vacancy committee members selected along with their addresses and telephone numbers.

(8) All references to elected public officials in this article shall include those public officials appointed to fill vacancies in elective offices.

(9) (a) No later than ninety days after the organization of the state central committees of the major political parties in each odd-numbered year, each committee shall adopt in its bylaws or rules its general guidelines and regulations for all county party matters. Such bylaws or rules shall establish a procedure for the selection of delegates to any party assembly that is consistent with party practice. Any method under such procedure for choosing or allocating delegates in a county based on the number of votes cast at an election for a particular candidate shall be uniform among the counties so that all types of ballots are counted or not counted for purposes of determining the number of votes cast. Any county central committee may adopt its own rules in conformance with those of the state central committee. In the absence of county rules pertaining to specific items, the party's state central committee's guidelines and rules shall apply. Each state central committee shall file its party's bylaws or rules with the secretary of state no later than the first Monday in February in each even-numbered year and, if filed prior to that date, the bylaws or rules may be amended until that date. Except as provided in subsection (9)(c) of this section, no bylaw or rule may be filed or amended after the first Monday in February in each even-numbered year. Where the bylaws or rules are not filed in accordance with this section, the party's state central committee, as well as the party's county central committee, are subject to the code through the general election of the same year. Each state central committee shall compile and provide to the secretary of state information concerning the membership of the county central committees of the party in addition to the bylaws or rules of each county central committee.

(b) and (c) Repealed.

(10) (a) Each party state senatorial central committee and each party state representative central committee shall elect its own chairperson, vice-chairperson, and secretary and adopt its own bylaws concerning its conduct, which shall include, but not be limited to, the listing of requirements for eligibility to vote in the state senatorial or state representative district assembly.

(b) The chairperson of each party state senatorial central committee and each party state representative central committee shall fix the time and place of meetings of the central committee, shall fix the time and place of its district assembly, and shall preside over the meetings and district assembly.

(11) Repealed.

(12) If a jurisdiction's central committee that is not a state senatorial central committee or state representative central committee fails to select a vacancy committee, the central committee of the jurisdiction serves as the vacancy committee.

(13) In selecting the members of a vacancy committee authorized to fill vacancies in office pursuant to this section, the jurisdiction's central committee that is not a state senatorial central committee or state representative central committee shall select, at a minimum, the members of the jurisdiction's central committee.

(14) If a state senatorial central committee or state representative central committee fails to select a vacancy committee, the vacancy committee is comprised of the state senatorial central committee or state representative central committee and any county commissioners who are members of the political party and reside within the state senatorial or state representative district.

(15) In selecting the members of a vacancy committee authorized to fill vacancies in office pursuant to this section, the state senatorial central committee or state representative central committee shall select, at a minimum, the members of the state senatorial central committee or state representative central committee and any county commissioners who are members of the political party and reside within the state senatorial or state representative district.

Source: L. 80: Entire article R&RE, pp. 316, 421, §§ 1, 1, effective January 1, 1981. **L. 81:** (1)(a), (1)(b), (4)(d), (5)(b), and (6)(b) amended, p. 305, § 2, effective January 1, 1982. **L. 82:** (1)(e) added, p. 218, § 1, effective April 2. **L. 83:** (1)(b)(II), (1)(c), (1)(d), and (7) amended, p. 360, § 1, effective May 20. **L. 85:** (3)(b) and (4)(b) amended and (3)(d), (3)(e), (4)(e), and (4)(f) added, pp. 255, 256, §§ 5, 6, effective May 31. **L. 87:** (5) and (6) amended, p. 284, § 5, effective June 26. **L. 89:** (9) amended, p. 313, § 1, effective April 12; (3)(a), (4)(a), (5), and (6) amended, p. 301, § 5, effective May 9. **L. 91:** (5)(a), (6)(a), and (9) amended, p. 619, § 30, effective May 1. **L. 92:** (9) amended, p. 591, § 2, effective April 10; entire article amended, p. 666, § 3, effective January 1, 1993. **L. 93:** (2)(b) amended, p. 1765, § 2, effective June 6. **L. 96:** (9) amended, p. 1738, § 19, effective July 1. **L. 98:** (9) amended, p. 814, § 1, effective August 5. **L. 99:** (7) and (9) amended, p. 761, § 17, effective May 20. **L. 2002:** (9) amended, p. 132, § 3, effective March 27. **L. 2012:** (9)(a) amended, (HB 12-1292), ch. 181, p. 679, § 9, effective May 17. **L. 2018:** (9)(a) amended, (SB 18-233), ch. 262, p. 1607, § 9, effective May 29. **L. 2019:** (7) amended, (HB 19-1278), ch. 326, p. 3009, § 14, effective August 2. **L. 2020:** (9)(a) amended and (9)(c) added, (HB 20-1359), ch. 23, p. 82, § 1, effective March 16. **L. 2021:** (11) added, (HB 21-1001), ch. 1, p. 1, § 1, effective January 20; (1)(a) amended and (12) added, (SB 21-250), ch. 282, p. 1638, § 13, effective June 21. **L. 2022:** (13) added, (HB 22-1044), ch. 83, p. 403, § 1, effective August 10. **L. 2023:** (4)(d) amended, (SB 23-276), ch. 399, p. 2375, § 7, effective June 6. **L.**

2024: (5)(a) and (6)(a) amended, (SB 24-210), ch. 468, p. 3242, § 6, effective June 6. **L. 2025:** (1)(a), (12), and (13) amended and (14) and (15) added, (HB 25-1315), ch. 180, p. 769, § 2, effective August 6.

Editor's note: (1) This section is similar to former § 1-14-108 as it existed prior to 1980.

(2) Subsection (1)(e) provided for the repeal of subsection (1)(e), effective January 5, 1985. (See L. 82, p. 218.)

(3) Amendments to subsection (9) by Senate Bill 92-194 were harmonized with House Bill 92-1333.

(4) Subsection (9)(b)(III) provided for the repeal of subsection (9)(b), effective July 1, 2002. (See L. 2002, p. 132.)

(5) Subsection (9)(c)(II) provided for the repeal of subsection (9)(c), effective December 31, 2020. (See L. 2020, p. 82.)

(6) Subsection (11)(d) provided for the repeal of subsection (11), effective December 31, 2021. (See L. 2021, p.1.)

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

It is the duty of the state central committee of a political party to recognize a county chairman as one of its members. People ex rel. Vick Roy v. Republican State Cent. Comm., 75 Colo. 312, 226 P. 656 (1924).

Filing roll of members not condition precedent to determine factional disputes. The filing of a roll of members of the state central committee of a political party with the secretary of state, as required by this section, is not a condition precedent to the exercise by the committee of the power to determine factional disputes in subordinate divisions of the party. People ex rel. Lowry v. Dist. Court, 32 Colo. 15, 74 P. 896 (1903).

Faction estopped to deny authority. Where it appears that a faction challenging the power of the committee upon that ground has heretofore invoked the jurisdiction of the committee to act upon the controversy, it is estopped to deny the committee's authority. People ex rel. Lowry v. Dist. Court, 32 Colo. 15, 74 P. 896 (1903).

1-3-104. Political party vacancy committees.

All vacancies in state, congressional, judicial, senatorial, representative, or county commissioner party central committees shall be filled by the respective party county central committees pursuant to section 1-3-103.

Source: L. 80: Entire article R&RE, p. 320, § 1, effective January 1, 1981. **L. 92:** Entire article amended, p. 671, § 3, effective January 1, 1993.

Editor's note: This section is similar to former § 1-14-110 (2) as it existed prior to 1980.

1-3-105. Powers of central committees.

(1) Subject to the provisions of section 1-3-106 (2), the state central committee has the power to make all rules for party government.

(2) Any state, congressional, judicial, senatorial, representative, county commissioner, or county central committee may select a managing or executive committee and may authorize the executive committee to exercise any and all powers conferred upon the respective central committees.

(3) Repealed.

Source: L. 80: Entire article R&RE, p. 320, § 1, effective January 1, 1981. **L. 92:** Entire article amended, p. 671, § 3, effective January 1, 1993. **L. 2020:** (3) added, (HB 20-1359), ch. 23, p. 86, § 2, effective March 16.

Editor's note: (1) This section is similar to former § 1-14-110 (1) and (3) as it existed prior to 1980.

(2) Subsection (3)(b) provided for the repeal of subsection (3), effective December 31, 2020. (See L. 2020, p. 86.)

1-3-106. Control of party controversies.

(1) The state central committee of any political party in this state has full power to pass upon and determine all controversies concerning the regularity of the organization of that party within any congressional, judicial, senatorial, representative, or county commissioner district or within any county and also concerning the right to the use of the party name. The state central committee may make rules governing the method of passing upon and determining controversies as it deems best, unless the rules have been provided by the state convention of the party as provided in subsection (2) of this section. All determinations upon the part of the state central committee shall be final.

(2) From the time the state convention of the party convenes until the time of its final adjournment, the state convention has all the powers given by subsection (1) of this section to the state central committee, but not otherwise. The state convention of the party may also provide rules that shall govern the state central committee in the exercise of the powers conferred upon the committee in subsection (1) of this section.

Source: L. 80: Entire article R&RE, p. 320, § 1, effective January 1, 1981. **L. 92:** Entire article amended, p. 671, § 3, effective January 1, 1993.

Editor's note: This section is similar to former § 1-14-109 as it existed prior to 1980.

Cross references: For congressional districts, see section 44 of article V of the state constitution.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

The power granted to the state central committee of a political party to determine party controversies is constitutional. This grant of power was not in violation of the former provisions concerning district court jurisdiction, now § 9 of art. VI, Colo. Const., on the grounds that it divests the district courts of jurisdiction in such causes and confers it upon another tribunal, as the district courts have no such jurisdiction in the absence of a statute conferring it. People ex rel. Lowry v. Dist. Court, 32 Colo. 15, 74 P. 896 (1903).

And the committee, or the state convention while in session, has exclusive jurisdiction to determine all controversies between factions of the same party as to

which is the regular organization and entitled to the party name and to make and file nominations for office under the party name within any district, county, or city of the state. People ex rel. Lowry v. Dist. Court, 32 Colo. 15, 74 P. 896 (1903).

Factional disputes of subordinate divisions of a political party must be referred to the state central committee of that political party. People ex rel. Lowry v. Dist. Court, 32 Colo. 15, 74 P. 896 (1903).

And the courts have no jurisdiction in such factional and internal disputes between members of the same party although the committee may not have passed thereon. People ex rel. Lowry v. Dist. Court, 32 Colo. 15, 74 P. 896 (1903).

And prohibition lies to prevent court from taking further action. Where a district court is proceeding without jurisdiction to determine a factional dispute between members of the same political party, and the parties objecting to such proceeding have no speedy and adequate remedy at law, on petition to supreme court a writ of prohibition will issue to prevent the court from taking any further action in the matter except to dismiss the proceedings. People ex rel. Lowry v. Dist. Court, 32 Colo. 15, 74 P. 896 (1903).

1-3-107. Party platforms.

(1) Any assembly or convention of any political party may formulate, adopt, and publish a platform for the political subdivision which the assembly or convention represents.

(2) Repealed.

Source: L. 80: Entire article R&RE, p. 321, § 1, effective January 1, 1981. **L. 85:** (2) repealed, p. 270, § 37, effective May 31. **L. 92:** Entire article amended, p. 672, § 3, effective January 1, 1993.

Editor's note: This section is similar to former § 1-14-111 as it existed prior to 1980.

1-3-108. Use of party name.

No person, group of persons, or organization shall use the name or address of a political party, in any manner, unless the person, group of persons, or organization has received permission to use the name or address from the executive committee of the political party.

Source: L. 87: Entire section added, p. 285, § 6, effective June 26. **L. 92:** Entire article amended, p. 672, § 3, effective January 1, 1993.

ARTICLE 4

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PART 1

PRIMARY ELECTIONS

1-4-101. Primary elections - when - nominations - expenses - legislative declaration.

(1) Except as provided in section 1-4-104.5, a primary election shall be held on the last Tuesday in June of even-numbered years to nominate candidates of political parties to be voted for at the succeeding general election. Except as provided by section 1-4-1304 (1.5), only a major political party, as defined in section 1-1-104 (22), is entitled to nominate candidates in a primary election.

(2) (a) Each political party that is entitled to participate in the primary election must have a separate party ballot for use by electors affiliated with that political party. An elector is not required to vote in the same party primary as the elector voted in as part of a presidential primary election occurring in that same year, if such an election is held.

(b) The county clerk and recorder shall send to all active electors in the county who have not declared an affiliation a mailing that contains the ballots of all of the major political parties. In this mailing, the clerk shall also provide written instructions advising the elector of the manner in which the elector will be in compliance with the requirements of this code in selecting and casting the ballot of a major political party. An elector may cast the ballot of only one major political party. After selecting and casting a ballot of a single major political party, the elector shall return the ballot to the clerk. If an elector casts and returns to the clerk the ballot of more than one major political party, all such ballots returned will be rejected and will not be counted.

(c) The secretary of state may by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections.

(d) The primary election of all political parties shall be held at the same time and shall be conducted by the same election officials.

(3) All nominations by major political parties for candidates for United States senator, representative in congress, all elective state, district, and county officers, and members of the general assembly shall be made by primary elections; except that, for general elections occurring after January 1, 2001, nominations by major political parties for candidates for lieutenant governor shall not be made by primary elections and shall be made pursuant to section 1-4-502 (3). Neither the secretary of state nor any county clerk and recorder shall place on the official general election ballot the name of any person as a candidate of any major political party who has not been nominated in accordance with the provisions of this article, or who has not been

affiliated with the major political party for the period of time required by section 1-4-601, or who does not meet residency requirements for the office, if any. The information found on the voter registration record of the county of current or previous residence of the person seeking to be placed on the ballot is admissible as prima facie evidence of compliance with this article.

(4) Except as otherwise provided in this code, all primary elections shall be conducted in the same manner as general elections insofar as the general election provisions are applicable, and the election officers for primary elections have the same powers and shall perform the same duties as those provided by law for general elections.

(5) All expenses incurred in the preparation or conduct of the primary election shall be paid out of the treasury of the county or state, as the case may be, in the same manner as for general elections.

(6) (a) The general assembly finds and declares that, for this subsection (6), it intends that a general provision with a later effective date prevails over a specific provision with an earlier effective date.

(b) A designated election official may conduct an all-candidate primary election using an all-candidate primary ballot only after the requirements established in section 1-7-1002 (2.5) have been satisfied.

Source: L. 80: Entire article R&RE, p. 321, § 1, effective January 1, 1981. **L. 81:** (1) amended, p. 307, § 3, effective January 1, 1982. **L. 83:** (3) amended, p. 350, § 9, effective July 1. **L. 85:** (1) amended, p. 248, § 4, effective July 1. **L. 86:** (3) amended, p. 396, § 6, effective April 17. **L. 88:** (3) amended, p. 293, § 1, effective May 29. **L. 89:** (3) amended, p. 314, § 2, effective April 12. **L. 91:** (3) amended, p. 620, § 31, effective May 1. **L. 92:** Entire part amended, p. 672, § 4, effective January 1, 1993. **L. 98:** (1) to (3) amended, p. 256, § 4, effective April 13. **L. 99:** (3) amended, p. 159, § 7, effective August 4. **L. 2000:** (3) amended, p. 2027, § 1, effective August 2. **L. 2003:** (1) and (2) amended, p. 1309, § 4, effective April 22. **L. 2009:** (1) amended, (HB 09-1015), ch. 259, p. 1183, § 1, effective August 5. **L. 2010:** (3) amended, (HB 10-1271), ch. 324, p. 1501, § 1, effective May 27. **L. 2011:** (1) amended, (SB 11-189), ch. 243, p. 1062, § 3, effective May 27. **L. 2013:** (1) and (2) amended, (HB 13-1303), ch. 185, p. 703, § 28, effective May 10. **Initiated 2016:** (2) amended, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2822. **L. 2017:** IP(2) and (2)(a) amended, (SB 17-305), ch. 216, p. 841, § 2, effective August 9. **L. 2023:** (2)(b) amended, (SB 23-276), ch. 399, p. 2376, § 8, effective June 6. **L. 2024:** (6) added, (SB 24-210), ch. 468, p. 3265, § 53, effective March 1, 2026.

Editor's note: (1) This section is similar to former § 1-14-202 as it existed prior to 1980.

(2) This section was amended by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

(3) Subsection (2), as amended by Proposition 108 and Senate Bill 17-305, was relettered on revision to conform to statutory format.

Cross references: (1) In 2013, subsections (1) and (2) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

ANNOTATION

Proposition 108, a voter-approved ballot initiative allowing voters not affiliated with a political party to vote in nonpresidential primary elections, does not impose a severe burden on political parties' freedom of association rights in violation of the first amendment to the United States Constitution. Colo. Republican Party v. Griswold, 715 F. Supp. 3d 1339 (D. Colo. 2024).

Nor does it infringe on a political party's freedom of speech rights under the first amendment by compelling speech where there was no evidence that the party was forced to lend its name to a candidate who does not reflect the views of a majority or even plurality of the party's members. Colo. Republican Party v. Griswold, 715 F. Supp. 3d 1339 (D. Colo. 2024).

Nor does it dilute the votes of the party's members under the equal protection clause of the fourteenth amendment to the federal constitution by allowing unaffiliated voters to vote in its primary. Colo. Republican Party v. Griswold, 715 F. Supp. 3d 1339 (D. Colo. 2024).

Nor does it violate the equal protection clause by treating major political parties and their members differently from minor political parties and their members. Colo. Republican Party v. Griswold, 715 F. Supp. 3d 1339 (D. Colo. 2024).

The primary election law was intended to and did take from political bosses the right to control in the nominating of candidates for office; that it had surrounded the primary election with all the safeguards provided for general elections; and that the persons who are chosen by the voters to represent them, in matters preliminary to nominations, are entitled to hold the position

for which they have been so chosen during the term prescribed by law. People ex rel. Vick Roy v. Republican State Cent. Comm., 75 Colo. 312, 226 P. 656 (1924) (concurring opinion) (decided under former law).

Compliance with residence requirement can be proven by means other than the voter registration page. Romero v. Sandoval, 685 P.2d 772 (Colo. 1984).

1-4-102. Methods of placing names on primary ballot.

All candidates for nominations to be made at any primary election shall be placed on the primary election ballot either by certificate of designation by assembly or by petition.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-14-203 as it existed prior to 1980.

1-4-103. Order of names on primary ballot.

Candidates designated and certified by assembly for a particular office shall be placed on the primary election ballot in the order of the vote received at the assembly. The candidate receiving the highest vote shall be placed first in order on the ballot, followed by the candidate receiving the next highest vote. To qualify for placement on the primary election ballot, a candidate must receive thirty percent or more of the votes of the assembly. The names of two or more candidates receiving an equal number of votes for designation by assembly shall be placed on the primary ballot in the order determined by lot in accordance with section 1-4-601 (2). Candidates by petition for any particular office shall follow assembly candidates and shall be placed on the primary election ballot in an order established by lot.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 86:** Entire section amended, p. 1214, § 1, effective May 30. **L. 87:** Entire section amended, p. 286, § 7, effective June 26. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-14-209 as it existed prior to 1980.

ANNOTATION

The fact that several candidates have been designated by the party assembly does not preclude a petition candidate from having his petition accepted by the secretary of state (or county clerk, as the case may be) and his name listed as a candidate for his party's nomination on the primary ballot. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968) (decided under former law).

Petitioner's name allowed to appear on ballot. Where the secretary of state accepted and approved the petition filed by petitioner and no objections were filed as to the validity of his petition, there was no issue in reference to his right to appear on the primary ballot as a candidate by petition and his name did appear. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968) (decided under former law).

1-4-104. Party nominees.

Candidates voted on for offices at primary elections who receive a plurality of the votes cast shall be the respective party nominees for the respective offices. If more than one office of the same kind is to be filled, the number of candidates equal to the number of offices to be filled receiving the highest number of votes shall be the nominees of the political party for the offices. The names of the nominees shall be printed on the official ballot prepared for the ensuing general election.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993. **L. 98:** Entire section amended, p. 256, § 5, effective April 13. **L. 2003:** Entire section amended, p. 1309, § 5, effective April 22.

Editor's note: This section is similar to former § 1-15-109 as it existed prior to 1980.

1-4-104.5. Primary election canceled - when.

(1) If, at the close of business on the sixtieth day before the primary election, there is not more than one candidate for any political party who has been nominated in accordance with this article or who has filed a write-in candidate affidavit of intent pursuant to section 1-4-1101 for any office on the primary election ballot, the designated election official may cancel the primary election and declare each candidate the party nominee for that office at the general election. For purposes of other applicable law, such nominee shall be deemed a candidate in and the winner of the primary election. The name of each nominee shall be printed on the official ballot prepared for the ensuing general election.

(2) If a major political party has more than one candidate nominated for any office on the primary election ballot, the primary election shall be conducted as provided in section 1-4-101.

(3) If, at the close of business on the sixtieth day before the primary election, there is not more than one candidate for each major political party who has been nominated in accordance with this article for any office on the primary election ballot and a minor political party has more than one candidate nominated for any such office, the primary election shall be conducted as provided in section 1-4-101 for the nomination of the minor political party candidate only.

Source: L. 2009: Entire section added, (HB 09-1015), ch. 259, p. 1183, § 2, effective August 5.

1-4-105. Defeated candidate ineligible.

No person who has been defeated as a candidate in a primary election shall be eligible for election to the same office by ballot or as a write-in candidate in the next general election unless the party vacancy committee nominates that person; except that this section does not apply to candidates for president of the United States.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 91:** Entire section amended, p. 620, § 32, effective May 1. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3243, § 7, effective June 6.

Editor's note: This section is similar to former § 1-15-110 as it existed prior to 1980.

ANNOTATION

A defeated candidate in a primary election is not barred from being named as a candidate to fill a vacancy occasioned by the death of the regular nominee for the office. Armstrong v. Simonson, 84 Colo. 472, 271 P. 627 (1928) (decided under former law).

PART 2

GENERAL ELECTIONS

1-4-201. Time of holding general election.

A general election shall be held in all precincts in this state on the Tuesday succeeding the first Monday of November in every even-numbered year.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-16-101 as it existed prior to 1980.

Cross references: For the hours of voting, see § 1-7-101.

ANNOTATION

Law reviews. For note, "Equitable Supervision of Elections", see 9 Rocky Mt. L. Rev. 279 (1937).

1-4-202. United States senators.

At the general election in 1984 and every six years thereafter, one United States senator shall be elected for the next term; and, at the general election in 1986 and every six years thereafter, one United States senator shall be elected for the next term.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-16-104 as it existed prior to 1980.

ANNOTATION

Law reviews. For article, "The Constitutionality of Term Limitation", see 19 Colo. Law. 2193 (1990).

1-4-203. Representatives in congress.

At every general election, the number of representatives in congress to which the state is entitled shall be elected.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-16-105 as it existed prior to 1980.

Cross references: For congressional districts, see section 44 of article V of the state constitution.

ANNOTATION

Law reviews. For article, "Reapportionment, The Courts, and the Voting Rights Act: A Resegregation of the Political Process?", see 56 U. Colo. L. Rev. 1 (1984). For article, "The Constitutionality of Term Limitation", see 19 Colo. Law. 2193 (1990).

1-4-204. State and district officers.

At the general election in 1982 and every fourth year thereafter, the following state officers shall be elected: One governor, one lieutenant governor, one secretary of state, one state treasurer, and one attorney general. The lieutenant governor shall be elected jointly with the governor. At every general election, the number of members of the state house of representatives to which each representative district is entitled shall be elected in that district. Candidates for the offices of regents of the university of Colorado, state senators, members of the state board of education, and district attorneys shall be voted on at the general election immediately prior to the expiration of the regular terms for those offices.

Source: L. 80: Entire article R&RE, p. 322, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 673, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-16-102 as it existed prior to 1980.

Cross references: For terms of office for regents of the university of Colorado, see § 12 of art. IX, Colo. Const.; for terms of office for state senators, see § 2-2-103; for terms of office for members of the state board of education, see § 22-2-105; for terms of office for district attorneys, see § 13 of art. VI, Colo. Const.; for the election of presidential electors, see § 1-4-301; for the election of state officers, see §§ 1, 3, and 4 of art. IV, Colo. Const.; for the election of district judges, see §§ 10 and 11 of art. VI, Colo. Const.; for the election of district attorneys, see § 13 of art. VI, Colo. Const.; for the division of county into districts for the purpose of electing county commissioners, see § 30-10-306.

ANNOTATION

Law reviews. For article, "The Constitutionality of Term Limitation", see 19 Colo. Law. 2193 (1990).

1-4-205. County commissioners.

(1) (a) Members of the board of county commissioners shall be elected in each county, excluding a city and county, for a term of four years.

(b) No person shall be a county commissioner unless that person is a registered elector and has resided in the district for at least one year prior to the election.

(2) Each county having a population of less than seventy thousand shall have three county commissioners, any two of whom shall constitute a quorum for the transaction of business. One commissioner shall be elected at the general election in 1982 and every four years thereafter, and two commissioners shall be elected at the general election in 1984 and every four years thereafter.

(3) (a) In each county having a population of seventy thousand or more, the board of county commissioners may consist either of three members, any two of whom shall constitute a quorum for the transaction of business, or of five members, any three of whom shall constitute a quorum for the transaction of business.

(b) If the board consists of three commissioners, they shall be elected as provided in subsection (2) of this section and as provided in section 30-10-306.7 (5), C.R.S.

(c) In any county having a population of seventy thousand or more, the membership of the board of county commissioners may be increased from three to five members pursuant to section 30-10-306.5, C.R.S., or decreased from five to three members pursuant to section 30-10-306.7 (2)(a)(II), C.R.S.

Source: L. 80: Entire article R&RE, p. 323, § 1, effective January 1, 1981. **L. 88:** (3)(b) and (3)(c) amended, p. 1113, § 3, effective April 9; (1) amended, p. 297, § 1, effective January 1, 1989. **L. 92:** Entire part amended, p. 674, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-16-106 as it existed prior to 1980.

Cross references: For election and terms of county officers, see §§ 6 and 8 of art. XIV, Colo. Const.; for statutes relating to county officers generally, see article 10 of title 30.

ANNOTATION

Law reviews. For article, "Colorado's Program to Improve Court Administration", see 38 Dicta 1 (1961).

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Courts would not inquire into county's increase in commissioners. Where a county entitled to increase the number of its commissioners from three to five, did make such increase, and the people of the county acquiesced therein and thereafter elected successors to the added members of the board so as to keep the number at five, in an action brought by private individuals twenty years after such increase was made to test the right of the successors of the added members of the board to the office, the courts will not inquire into the regularity of the proceeding making such increase. People ex rel. Lankford v. Long, 32 Colo. 486, 77 P. 251 (1904).

And court action was not maintainable. In an action against two county commissioners jointly to test their right to hold their offices on the ground that the board was illegally increased from three to five members and that respondents were the successors in office of the two illegally added members of the board, where it appears that one of the respondents was not a successor of either of the added members of the board, a joint action could not be maintained against respondents. People ex rel. Lankford v. Long, 32 Colo. 486, 77 P. 251 (1904).

1-4-206. Other county officers.

At the general election in 1982 and every four years thereafter, one county clerk and recorder, who shall be ex officio recorder of deeds and clerk of the board of county commissioners; one sheriff qualified pursuant to section 30-10-501.5, C.R.S.; one coroner qualified pursuant to section 30-10-601.5, C.R.S.; one treasurer, who shall be collector of taxes; one county superintendent of schools, unless the office of county superintendent of schools is abolished at a general election; one county surveyor; and one county assessor shall be elected in each county, excluding a city and county. The term of office of all such officials shall be four years.

Source: L. 80: Entire article R&RE, p. 323, § 1, effective January 1, 1981. **L. 90:** Entire section amended, p. 304, § 5, effective June 8. **L. 92:** Entire part amended, p. 674, § 4, effective January 1, 1993. **L. 2003:** Entire section amended, p. 1830, § 1, effective August 6.

Editor's note: This section is similar to former § 1-16-107 as it existed prior to 1980.

Cross references: For county officers' elections, terms, and salaries, see § 8 of art. XIV, Colo. Const.

PART 3

PRESIDENTIAL ELECTIONS

1-4-301. Time of holding presidential elections.

At the general election in 1984 and every fourth year thereafter, the number of presidential electors to which the state is entitled shall be elected.

Source: L. 80: Entire article R&RE, p. 323, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 674, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-16-103 as it existed prior to 1980.

1-4-302. Party nominations to be made by convention.

(1) Any convention of delegates of a political party or any committee authorized by resolution of the convention may nominate presidential electors.

(2) All nominations for vacancies for presidential electors made by the convention or a committee authorized by the convention shall be certified by affidavit of the presiding officer and secretary of the convention or committee.

Source: L. 80: Entire article R&RE, p. 323, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 675, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-14-107 as it existed prior to 1980.

Cross references: For methods of nomination, see §§ 1-4-502 and 1-4-503; for protests of designations and nominations, see § 1-4-909.

1-4-303. Nomination of unaffiliated candidates - fee. (Repealed)

Source: L. 80: Entire article R&RE, p. 324, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 675, § 4, effective January 1, 1993. **L. 95:** Entire section amended, p. 885, § 1, effective July 1; entire section amended, p. 860, § 114, effective July 1. **L. 98:** Entire section amended, p. 1317, § 4, effective June 1. **L. 99:** (1) amended, p. 762, § 18, effective May 20. **L. 2005:** (1) amended, p. 1398, § 13, effective June 6; (1) amended, p. 1433, § 13, effective June 6. **L. 2011:** (1) amended, (SB 11-189), ch. 243, p. 1063, § 4, effective May 27. **L. 2012:** (1) amended, (HB 12-1292), ch. 181, p. 679, § 10, effective May 17. **L. 2019:** (1) amended, (HB 19-1278), ch. 326, p. 3010, § 15, effective August 2. **L. 2021:** Entire section repealed, (SB 21-250), ch. 282, p. 1672, § 83, effective June 21.

1-4-304. Presidential electors.

(1) The presidential electors shall convene at the capital of the state, in the office of the governor at the capitol building, on the first Tuesday after the second Wednesday in the first December following their election at the hour of 12 noon and take the oath required by law for presidential electors; except that the presidential electors may convene at a different location designated by the governor if the governor determines that it is not feasible to meet in the office

of the governor at the capitol building. If any vacancy occurs in the office of a presidential elector because of death, refusal to act, absence, or other cause, the presidential electors present shall immediately proceed to fill the vacancy in the electoral college. When all vacancies have been filled, the presidential electors shall proceed to perform the duties required of them by the constitution and laws of the United States. The vote for president and vice president shall be taken by open ballot.

(2) The secretary of state shall give notice in writing to each of the presidential electors of the time and place of the meeting at least ten days prior to the meeting; except that if the governor determines that it is not feasible to meet in the office of the governor at the capitol building, the secretary of state shall give notice as early as possible.

(3) The secretary of state shall provide the presidential electors with the necessary blanks, forms, certificates, or other papers or documents required to enable them to properly perform their duties and shall sign the certificate of votes made by the electors.

(4) If desired, the presidential electors may have the advice of the attorney general of the state in regard to their official duties.

(5) (a) Each presidential elector shall vote for the presidential candidate and, by separate ballot, vice-presidential candidate who received the highest number of votes at the preceding general election in the state.

(b) If a presidential candidate or vice-presidential candidate nominated by a political party dies or withdraws as a candidate for that office in accordance with the rules of the political party after accepting nomination but prior to the meeting of presidential electors pursuant to this section, an elector's vote pursuant to subsection (5)(a) of this section for such presidential candidate or vice-presidential candidate refers to the successor candidate nominated by the political party in accordance with the rules of the political party. Any vote for a successor candidate pursuant to this subsection (5)(b) is not a violation of section 1-13-725.

Source: L. 80: Entire article R&RE, p. 324, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 675, § 4, effective January 1, 1993. **L. 2001:** (5) amended, p. 1002, § 3, effective August 8. **L. 2023:** (1) and (3) amended, (SB 23-276), ch. 399, p. 2376, § 9, effective June 6. **L. 2024:** (1) and (2) amended, (SB 24-210), ch. 468, p. 3243, § 8, effective June 6. **L. 2026:** (5) amended, (HB 26-1113), ch. 267, p. 1491, § 15, effective June 1.

Editor's note: This section is similar to former § 1-17-101 as it existed prior to 1980.

ANNOTATION

A presidential elector asserted a personal injury sufficient to meet the federal article III standing requirement for retrospective relief based on the elector's removal from an office to which the elector was entitled and the cancellation of the elector's vote. Baca v. Colo. Dept. of State, 935 F.3d 887 (10th Cir. 2019).

Presidential electors who claim injury based on their official roles as electors and on threats made against all of the state's electors allege a general diminution of the power of the office, which is not sufficient to meet the personal injury-in-fact requirement of standing. Baca v. Colo. Dept. of State, 935 F.3d 887 (10th Cir. 2019).

1-4-305. Compensation.

Every presidential elector of this state who attends and votes for those officers at the time and place appointed by law is entitled to receive the sum of five dollars per day for each day's attendance at the election and fifteen cents per mile for each mile traveled in going to and returning from the place where the electors meet, by the most usual route traveled, to be paid out of the general fund. The controller shall audit the amount and draw a warrant for the same.

Source: L. 80: Entire article R&RE, p. 324, § 1, effective January 1, 1981. **L. 92:** Entire part amended, p. 675, § 4, effective January 1, 1993.

Editor's note: This section is similar to former § 1-17-102 as it existed prior to 1980.

PART 4

CONGRESSIONAL VACANCY ELECTIONS

1-4-401. Time of congressional vacancy elections.

(1) Except as provided in section 1-4-401.5, when any vacancy occurs in the office of representative in congress from this state, the governor shall, within seven days of the vacancy, set a day to hold an election to fill the vacancy and cause notice of the election to be given as required in part 2 of article 5 of this title; but no congressional vacancy election shall be held during the ninety days prior to a general election. If the vacancy occurs between one hundred fifty and ninety days prior to a regularly scheduled statewide presidential primary, primary, or coordinated election, the congressional vacancy election shall be held as part of that election. If the vacancy occurs outside the period between one hundred fifty days and ninety days prior to a regularly scheduled statewide presidential primary, primary, or coordinated election, the

congressional vacancy election shall be held no less than ninety days and no more than one hundred twenty days after the vacancy occurs.

(2) A congressional vacancy election held as a separate election shall be conducted and the results thereof surveyed and certified in all respects according to the provisions that govern general elections, except as otherwise provided in this code.

(3) A congressional vacancy election held as part of a regularly scheduled statewide election shall be conducted and the results thereof surveyed and certified in all respects according to the provisions governing that regularly scheduled statewide election, except as otherwise provided in this code.

Source: L. 80: Entire article R&RE, p. 324, § 1, effective January 1, 1981. **L. 83:** (1) amended, p. 350, § 10, effective July 1. **L. 92:** Entire part amended, p. 676, § 4, effective January 1, 1993. **L. 93:** (1) amended, p. 1765, § 3, effective June 6. **L. 95:** (1) amended, p. 829, § 25, effective July 1. **L. 2008:** (1) amended, p. 409, § 2, effective August 5. **L. 2011:** (1) amended, (SB 11-189), ch. 243, p. 1063, § 5, effective May 27. **L. 2026:** (1) and (2) amended and (3) added, (HB 26-1113), ch. 267, p. 1491, § 16, effective June 1.

Editor's note: This section is similar to former § 1-11-101 as it existed prior to 1980.

Cross references: For registration for congressional vacancy elections, see § 1-2-210; for the power of the county central committee to fill vacancies, see § 1-3-104; for filling vacancies to serve as judges of elections, see § 1-6-113.

1-4-401.5. Special congressional vacancy election - continuity in representation - rules.

(1) In the event of a declaration by the speaker of the United States house of representatives pursuant to 2 U.S.C. sec. 8 (b) that vacancies exist in more than one hundred of the offices of representatives in congress and where one or more of those vacancies is in the office of representative in congress from this state, the governor shall issue a proclamation setting a day to hold a special congressional vacancy election. The special congressional vacancy election shall be conducted on a Tuesday not more than forty-nine days after the date of the declaration, unless a general election for the office is to be held within seventy-five days of the date of the declaration.

(2) Candidates at the special congressional vacancy election shall be nominated by the party congressional central committee selected pursuant to section 1-3-103 (3) not later than ten days

after the declaration by the speaker of the United States house of representatives described in subsection (1) of this section.

(3) A person who desires to be an unaffiliated candidate at the special congressional vacancy election shall submit to the secretary of state a notarized candidate's statement of intent together with a nonrefundable filing fee of five hundred dollars.

(4) The secretary of state shall have the authority to promulgate rules as may be necessary to administer and enforce any provision of this section or to adjust statutory deadlines to ensure that a special congressional vacancy election is held within the time required by this section and 2 U.S.C. sec. 8 (b).

Source: L. 2008: Entire section added, p. 409, § 3, effective August 5.

1-4-402. Nominations of political party candidates.

(1) (a) Any convention of delegates of a political party or any committee authorized by resolution of the convention shall nominate a candidate to fill a vacancy in the unexpired term of a representative in congress. A state central committee, its managing or executive committee selected pursuant to section 1-3-105 (2), or any other committee designated by the bylaws of the state central committee to convene a convention to nominate a candidate to fill a vacancy in the unexpired term of a representative in congress shall convene the convention and shall provide the procedure for the nomination of the candidate. A copy of the notice of election, as set by the governor and filed with the secretary of state, shall be sent by email or mail to the state chairperson of each political party.

(b) Upon receipt of the notice, the state chairperson shall issue a call for the state convention, stating the number of delegates from each county and the method of their selection.

(c) No convention shall be held later than five days prior to the deadline for the secretary of state to certify ballot content for the election.

(d) (I) Any candidate nominated by a political party must be affiliated with the party for at least twelve consecutive months prior to the date the convention begins, as shown in the statewide voter registration system.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (d), if a political party has established a rule regarding the length of affiliation which is necessary to be eligible for nomination by convention for the office of representative in congress, the party rule shall apply.

(2) The nomination to fill the vacancy in the unexpired term of a representative in congress made by the political party convention or a committee authorized by the convention shall be certified by affidavit of the presiding officer and secretary of the convention or committee on a form provided by the secretary of state.

(3) (a) Any vacancy in nomination that occurs after the date of the convention or committee described in this section shall be filled by the party in accordance with party rules.

(b) When a vacancy in a party nomination is filled prior to the ballots being printed, the secretary of state shall direct each county clerk and recorder to print the name of the replacement candidate on the ballot.

(c) When a vacancy in a party nomination is filled subsequent to the ballots being printed, the secretary of state shall direct each county clerk and recorder to:

(I) Prominently post, on the designated election official's website and in each voter service and polling center, a notice of the vacancy and the name of the replacement candidate; and

(II) Either print and place on the sample ballot, which is delivered to the election judges and posted pursuant to section 1-5-413, a sticker of a different color than the sample ballot indicating the name of the replacement candidate or reprint the sample ballot with the name of the replacement candidate in a different color.

(d) Votes cast for the candidate who vacated the nomination must be counted as votes for the replacement candidate.

Source: L. 80: Entire article R&RE, p. 325, § 1, effective January 1, 1981. **L. 83:** Entire section amended, p. 362, § 1, effective January 14; (1) amended, p. 351, § 11, effective July 1. **L. 88:** (1)(d) amended, p. 293, § 2, effective May 29. **L. 92:** Entire part amended, p. 676, § 4, effective January 1, 1993. **L. 99:** (1)(d)(II) amended, p. 160, § 8, effective August 4. **L. 2016:** (1)(d)(I) amended, (SB 16-142), ch. 173, p. 575, § 27, effective May 18. **L. 2026:** (1)(a), (1)(c), (2) amended and (3) added, (HB 26-1113), ch. 267, p. 1492, § 17, effective June 1.

Editor's note: This section is similar to former § 1-14-107 as it existed prior to 1980.

Cross references: For methods of nomination, see §§ 1-4-502 and 1-4-503; for protests of designations and nominations, see § 1-4-909.

1-4-403. Nomination of unaffiliated candidates for congressional vacancy election.

(1) Except as provided in section 1-4-401.5, candidates for congress at a congressional vacancy election who do not wish to affiliate with a political party may be nominated pursuant to the provisions of section 1-4-802.

(2) Petitions must be filed by 5 p.m. on the tenth day before the deadline for the secretary of state to certify the ballot content for the election.

Source: L. 80: Entire article R&RE, p. 325, § 1, effective January 1, 1981. **L. 83:** Entire section R&RE, p. 351, § 12, effective July 1. **L. 92:** Entire part amended, p. 677, § 4, effective January 1, 1993. **L. 99:** Entire section amended, p. 762, § 19, effective May 20. **L. 2008:** (1) amended, p. 410, § 4, effective August 5. **L. 2011:** (2) amended, (SB 11-189), ch. 243, p. 1063, § 6, effective May 27. **L. 2024:** (2) amended, (SB 24-210), ch. 468, p. 3243, § 9, effective June 6. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1493, § 18, effective June 1.

Editor's note: This section is similar to former § 1-14-107 (5) as it existed prior to 1980.

ANNOTATION

Annotator's note. The following annotations are taken from a case decided under former provisions similar to this section.

The provision for acceptance of a nomination is so plain that it needs no construction other than that which its own language imports. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

All nominees of minor political parties are required to file an acceptance. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

And if they do not file an acceptance within the specified time, their failure to do so is equivalent to an express declination. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

And such nomination will be treated as vacant. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

The certificate of nomination has no force or effect if not filed within the time required by law. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

Although nominee has already accepted a nomination for the same office upon another ticket, the secretary of state is justified in refusing to certify it for a place on the ballot where nominee fails to file his acceptance. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

Without an express written acceptance there is just as much a vacancy as if a nominee by convention should expressly decline to accept. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

1-4-404. Nomination and acceptance of candidate - arrangement of names on ballots.

(1) Any person nominated in accordance with this article 4 shall file a written acceptance with the secretary of state by mail or hand delivery. The written acceptance must be postmarked or received by the secretary of state within four business days after the adjournment of the assembly. If an acceptance is not filed within the specified time, the candidate is deemed to have declined the nomination, and the nomination must be treated as a vacancy to be filled as provided in part 10 of this article 4.

(2) The secretary of state shall arrange the names of all candidates who have been duly nominated and filed a written acceptance in accordance with subsection (1) of this section on the ballot under the designation of the office in three groups as follows:

(a) The names of the candidates of the major political parties shall be placed on the ballot in an order established by lot and shall comprise the first group;

(b) The names of the candidates of the minor political parties shall be listed in an order established by lot and shall comprise the second group; and

(c) The names of the unaffiliated candidates shall be listed in an order established by lot and shall comprise the third group.

Source: L. 83: Entire section added, p. 351, § 13, effective July 1. **L. 92:** Entire part amended, p. 677, § 4, effective January 1, 1993. **L. 95:** Entire section amended, p. 829, § 26, effective July 1. **L. 2010:** Entire section amended, (HB 10-1116), ch. 194, p. 832, § 9, effective May 5. **L. 2017:** Entire section amended, (SB 17-209), ch. 234, p. 962, § 6, effective August 9. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1493, § 19, effective June 1.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

The provision for acceptance of a nomination is so plain that it needs no construction other than that which its own language imports. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

All nominees of minor political parties are required to file an acceptance. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

And if they do not file an acceptance within the specified time, their failure to do so is equivalent to an express declination. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

And such nomination will be treated as vacant. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

The certificate of nomination has no force or effect if not filed within the time required by law. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

Although nominee has already accepted a nomination for the same office upon another ticket, the secretary of state is justified in refusing to certify it for a place on the ballot where nominee fails to file his acceptance. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

Without an express written acceptance there is just as much a vacancy as if a nominee by convention should expressly decline to accept. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

PART 5

QUALIFICATIONS FOR OFFICE AND METHODS OF NOMINATION

Editor's note: Articles 1 to 13 were repealed and reenacted in 1980, and this part 5 was subsequently repealed and reenacted in 1992, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 5 prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the title heading. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated in 1992. For a detailed comparison of articles 1 to 13 for 1980 and this part 5 for 1992, see the comparative tables located in the back of the index.

1-4-501. Only eligible electors eligible for office.

(1) No person except an eligible elector who is at least eighteen years old, unless another age is required by law, is eligible to hold any office in this state. No person is eligible to be a designee or candidate for office at a presidential primary, state primary, general election, congressional vacancy election, or other coordinated election unless that person fully meets the qualifications of that office as stated in the constitution and statutes of the United States or this state on or before the date the term of that office begins. The secretary of state or designated election official, as applicable, shall not certify the name of any designee or candidate who fails to swear or affirm under oath that they will fully meet the qualifications of the office if elected; or who is unable to provide proof that they meet any requirements of the office relating to registration, residence, or property ownership; or who the secretary of state or designated

election official determines is not qualified to hold the office that they seek based on residency requirements, or other requirements that are objectively verifiable such as age, place of birth, term limits, or party affiliation. The information found on the person's voter registration record is admissible as prima facie evidence of compliance with this section.

(2) No person is eligible to be a candidate for more than one office at one time; except that this subsection (2) does not apply to memberships on different special district boards. This subsection (2) shall not prohibit a candidate or elected official of any political subdivision from being a candidate or member of the board of directors of any special district or districts in which they are an eligible elector, unless otherwise prohibited by law.

(3) The qualification of any candidate may be challenged by an eligible elector who lives in the district for which the candidate seeks office within five days after the designated election official's statement is issued that certifies the candidate to the ballot. The challenge shall be made by verified petition setting forth the facts alleged concerning the qualification of the candidate and shall be filed in the district court in the county in which the official who certified the candidate to the ballot is located. The hearing on the qualification of the candidate shall be held in not less than five nor more than ten days after the date the election official's statement is issued that certifies the candidate to the ballot. The court shall hear the testimony and other evidence and, within forty-eight hours after the close of the hearing, determine whether the candidate meets the qualifications for the office for which the candidate has declared. The provisions of section 13-17-101 regarding frivolous, groundless, or vexatious actions apply to this section.

Source: L. 92: Entire part R&RE, p. 677, § 5, effective January 1, 1993. **L. 94:** (2) amended, p. 1153, § 12, effective July 1. **L. 95:** Entire section amended, p. 829, § 27, effective July 1. **L. 2017:** (1) amended, (SB 17-209), ch. 234, p. 946, § 1, effective August 9. **L. 2023:** (3) amended, (SB 23-276), ch. 399, p. 2376, § 10, effective June 6. **L. 2026:** (1) and (2) amended, (HB 26-1113), ch. 267, p. 1493, § 20, effective June 1.

Editor's note: This section is similar to former § 1-4-501 as it existed prior to 1992.

Cross references: For electors only eligible to office, see also § 6 of art. VII, Colo. Const.; for disqualifications from holding office of trust or profit, see § 4 of art. XII, Colo. Const.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

One obtaining office illegally, guilty only of misdemeanor, not disqualified. People ex rel. Thomas v. Goddard, 8 Colo. 432, 7 P. 301 (1885).

Section does not conflict with § 4 of art. V, Colo. Const. Romero v. Sandoval, 685 P.2d 772 (Colo. 1984).

Conflict with § 1-1-113. Because § 1-1-113 permits the adjudication of controversies arising from any wrongful act that occurs prior to the day of an election, without further limitation, while subsection (3) of this section provides a specific challenge to the qualification of a candidate if made by filing a verified petition with the district court within five days of his or her certification to the ballot, the two provisions very much appear to be in conflict. Because effect can reasonably be given to both provisions and because this section is the later adopted of the two, the legislative prescription for this conflict is to give effect to subsection (3) of this section as the special, or more specific, provision. Carson v. Reiner, 2016 CO 38, 370 P.3d 1137.

Compliance with residency requirement can be proven by means other than the voter registration page. Romero v. Sandoval, 685 P.2d 772 (Colo. 1984).

1-4-502. Methods of nomination for partisan candidates.

(1) Except as otherwise provided in paragraphs (b) and (c) of subsection (3) of this section, nominations for United States senator, representative in congress, governor, lieutenant governor, secretary of state, state treasurer, attorney general, member of the state board of education, regent of the university of Colorado, member of the general assembly, district attorney, and all county officers to be elected at the general election may be made by primary election under section 1-4-101 or by assembly or convention under section 1-4-702 by major political parties, by petition for nomination as provided in section 1-4-802, or by a minor political party as provided in section 1-4-1304.

(2) Nominations for presidential electors to be elected at the general election and for candidates to fill vacancies to unexpired terms of representatives in congress to be elected at a congressional vacancy election may be made by a convention of a political party, or by a committee authorized by the convention, or by petition for nomination of an unaffiliated candidate as provided in parts 8 and 9 of this article.

(3) For general elections:

(a) The nomination of a major political party for lieutenant governor shall be made by the party's candidate for governor. No later than seven days after the official statewide election results for the primary election are certified pursuant to section 1-10-105 (1), the party's candidate for governor shall select a candidate for lieutenant governor and shall file a written

nomination of the candidate with the secretary of state. Other nominations for the office of lieutenant governor may be made by petition for nomination of an unaffiliated candidate as provided in section 1-4-802 or by a minor political party as provided in section 1-4-1304 (2).

(b) No person shall be eligible for a major political party nomination for lieutenant governor unless such person is a registered elector and has been affiliated with the major political party making the nomination, as shown in the record books of the county clerk and recorder, no later than the first business day of the January immediately preceding the election for which the person desires to be placed in nomination.

(c) Any person nominated as the candidate for lieutenant governor of a major political party pursuant to subsection (3)(a) of this section shall file a written acceptance with the secretary of state by mail or hand delivery. The written acceptance must be postmarked or received by the secretary of state within thirty days after the nomination. If an acceptance is not filed within the required time, the candidate is deemed to have declined the nomination, and the nomination must be treated as a vacancy to be filled as provided in part 10 of this article 4.

Source: L. 92: Entire part R&RE, p. 677, § 5, effective January 1, 1993. **L. 95:** Entire section amended, p. 860, § 115, effective July 1. **L. 98:** (1) amended, p. 256, § 6, effective April 13. **L. 2000:** (1) amended and (3) added, p. 2027, § 2, effective August 2. **L. 2003:** (1) amended, p. 1309, § 6, effective April 22. **L. 2010:** (3)(b) amended, (HB 10-1271), ch. 324, p. 1501, § 2, effective May 27. **Initiated 2016:** (1) amended, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2823. **L. 2017:** IP(3) and (3)(c) amended, (SB 17-209), ch. 234, p. 962, § 7, effective August 9. **L. 2019:** (3)(a) and (3)(c) amended, (HB 19-1278), ch. 326, p. 3010, § 16, effective August 2. **L. 2021:** (3)(a) amended, (SB 21-250), ch. 282, p. 1639, § 14, effective June 21.

Editor's note: (1) This section is similar to former § 1-4-502 as it existed prior to 1992.

(2) This section was amended by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

Cross references: (1) For party nominations by convention, see § 1-4-701.

(2) For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-4-503. Method of nomination for nonpartisan candidates.

Nominations for all elected nonpartisan local government officials must be by petition for nomination as provided in part 8 of this article.

Source: L. 92: Entire part R&RE, p. 678, § 5, effective January 1, 1993. **L. 99:** Entire section amended, p. 450, § 4, effective August 4. **L. 2014:** Entire section amended, (HB 14-1164), ch. 2, p. 72, § 36, effective February 18.

Editor's note: This section is similar to former §§ 1-4-502 and 1-4-801 as they existed prior to 1992.

Cross references: (1) For filing of petitions and certificates of designation of assembly, see § 1-4-604.

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

1-4-504. Documents are public records.

All certificates of designation, petitions, certificates of nomination, acceptances, declinations, and withdrawals are public records as soon as they are filed and are open to public inspection under proper regulation. When a copy of any document is presented at the time the original is filed or at any time thereafter and a request is made to have a copy compared and certified, the officer with whom the document is filed shall forthwith compare the copy with the original on file and, if necessary, correct the copy and certify and deliver the copy to the person who presented it upon the payment in advance of the copy and certification charge. All filed documents shall be preserved pursuant to section 1-7-802, unless otherwise ordered or restrained by some court.

Source: L. 92: Entire part R&RE, p. 678, § 5, effective January 1, 1993.

Editor's note: This section is similar to former § 1-4-503 as it existed prior to 1992.

Cross references: For statutes pertaining to public records generally, see article 72 of title 24; for filing of petitions and certificates of designation of assembly, see § 1-4-604.

PART 6

POLITICAL PARTY DESIGNATION FOR PRIMARY ELECTION

1-4-601. Designation of candidates for primary election - definition.

(1) (a) Assemblies of the major political parties may make assembly designations of candidates for nomination on the primary election ballot. Except as provided in subsection (1)(b) of this section, an assembly shall be held no later than seventy-three days preceding the primary election.

(b) Repealed.

(1.5) To be named as a candidate for designation by assembly, a person must provide notice in writing as follows no less than thirty days before the assembly, unless otherwise provided by party rules:

(a) A person seeking designation by a county assembly must provide notice to the county chair;

(b) A person seeking designation by a multicounty district assembly must provide notice to the multicounty district chair and the state chair;

(c) A person seeking designation by a single-county district assembly that is not a county assembly must provide notice to the single-county district chair; and

(d) A person seeking designation by the state assembly must provide notice to the state chair.

(2) (a) An assembly must take no more than two ballots for party candidates for each office to be filled at the next general election. Every candidate receiving thirty percent or more of the votes of all duly accredited assembly delegates who are present and voting on that office must be certified by affidavit of the presiding officer and secretary of the assembly. If no candidate receives thirty percent or more of the votes of all duly accredited assembly delegates who are present and voting, a second ballot must be cast on all the candidates for that office. If on the second ballot no candidate receives thirty percent or more of the votes cast, the two candidates receiving the highest number of votes must be certified as candidates for that office by the assembly. The certificate of designation by assembly must state the name of the office for which each person is a candidate and the candidate's name and address, must designate in not more than

three words the name of the political party which the candidate represents, and must certify that the candidate has been a member of the political party for the period of time required by party rule or by subsection (4) of this section if the party has no such rule. The candidate's affiliation, as shown in the statewide voter registration system, is prima facie evidence of political party membership. The certificate of designation must indicate the order of the vote received at the assembly by candidates for each office, but no assembly shall declare that any one candidate has received the nomination of the assembly. The certificate of designation must be filed in accordance with section 1-4-604. If two or more candidates receiving designation under this subsection (2) have received an equal number of votes, the order of certification of designation is determined by lot by the candidates. The assembly shall select a vacancy committee for vacancies in designation or nomination only.

(b) Repealed.

(c) Notwithstanding any provision to the contrary, a delegate may participate in the assembly remotely, including casting the delegate's vote by email, mail, telephone, or through an internet-based application if allowed by the party's rules.

(3) (a) Except as provided in paragraph (b) of this subsection (3), no later than four days after the adjournment of the assembly, each candidate designated by assembly shall file a written acceptance with the officer with whom the certificate of designation is filed. This acceptance may be transmitted by facsimile transmission. If the acceptance is transmitted by facsimile transmission, the original acceptance must also be filed and postmarked no later than ten days after the adjournment of the assembly. The acceptance shall state the candidate's name in the form in which it is to appear on the ballot. The name may include one nickname, if the candidate regularly uses the nickname and the nickname does not include any part of a political party name. If an acceptance is not filed within the specified time, the candidate shall be deemed to have declined the designation; except that the candidate shall not be deemed to have declined the designation and shall be included on the primary ballot if late filing of an acceptance is caused by the failure to timely file a certificate of designation or the failure to file such acceptance with such certificate of designation, as required by section 1-4-604 (1)(a).

(b) The written acceptance of a candidate nominated by assembly for any national or state office or for member of the general assembly, district attorney, or district office greater than a county office shall be filed by the presiding officer or secretary of such assembly with the certificate of designation of such assembly, as required by section 1-4-604 (1)(a). Nothing in this paragraph (b) shall prohibit a candidate from filing an acceptance of nomination directly with the officer with whom the certificate of designation is filed following written notice of such filing by the candidate to the presiding officer of the political party holding such assembly.

(4) (a) No person is eligible for designation by assembly as a candidate for nomination at any primary election unless the person was affiliated with the political party holding the assembly, as

shown in the statewide voter registration system, no later than the first business day of the January immediately preceding the primary election, unless otherwise provided by party rules.

(b) Repealed.

(5) As used in this section, "political party" means a major political party as defined in section 1-1-104 (22).

Source: L. 80: Entire article R&RE, p. 326, § 1, effective January 1, 1981. **L. 81:** (1) and (3) amended, p. 310, § 1, effective March 27. **L. 83:** (2) amended, p. 352, § 16, effective July 1. **L. 87:** (2) amended, p. 286, § 8, effective June 26. **L. 88:** (4) amended, p. 294, § 3, effective May 29. **L. 89:** (4)(b) repealed, p. 314, § 3, effective April 12; (1) and (2) amended, p. 302, § 7, effective May 9. **L. 92:** Entire part amended, p. 678, § 6, effective January 1, 1993. **L. 94:** (4)(a) amended, p. 1153, § 13, effective July 1. **L. 98:** (5) added, p. 257, § 7, effective April 13. **L. 99:** (3) amended, p. 285, § 1, effective April 13; (1) and (3) amended, p. 762, § 20, effective May 20; (2) amended, p. 160, § 9, effective August 4. **L. 2005:** (1) amended, p. 1398, § 14, effective June 6; (1) amended, p. 1433, § 14, effective June 6. **L. 2010:** (2) and (4)(a) amended, (HB 10-1271), ch. 324, p. 1502, § 3, effective May 27. **L. 2011:** (1) amended, (SB 11-189), ch. 243, p. 1063, § 7, effective May 27. **L. 2012:** (3)(a) amended, (HB 12-1292), ch. 181, p. 679, § 11, effective May 17. **L. 2016:** (2) and (4)(a) amended, (SB 16-142), ch. 173, p. 575, § 28, effective May 18. **L. 2020:** (1) and (2) amended, (HB 20-1359), ch. 23, p. 83, § 3, effective March 16. **L. 2021:** (1.5) and (2)(c) added, (SB 21-250), ch. 282, p. 1639, § 15, effective June 21. **L. 2023:** IP(1.5), (1.5)(b), and (1.5)(c) amended and (1.5)(d) added, (SB 23-276), ch. 399, p. 2377, § 11, effective June 6.

Editor's note: (1) This section is similar to former § 1-14-204 as it existed prior to 1980.

(2) Amendments to subsection (3) by Senate Bill 99-025 and House Bill 99-1225 were harmonized.

(3) Subsections (1)(b)(II) and (2)(b)(II) provided for the repeal of subsections (1)(b) and (2)(b), respectively, effective December 31, 2020. (See L. 2020, p. 83.)

Cross references: For the definition of assembly, see § 1-1-104 (1.3); for designation of candidates by petition, see § 1-4-603.

ANNOTATION

I. General Consideration.

II. Certification of Candidate's Designation.

III. Twelve-Month Affiliation Requirement.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Colorado Election Law Update", see 46 Colo. Law. 53 (Aug.-Sept. 2017).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Applied in Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982).

II. CERTIFICATION OF CANDIDATE'S DESIGNATION.

It is the duty of the presiding officer and the secretary of the assembly to certify the candidate's designation. Murphey v. Trott, 160 Colo. 336, 417 P.2d 234 (1966).

They must also certify that the candidate has been registered with the political party for the required time. Murphey v. Trott, 160 Colo. 336, 417 P.2d 234 (1966).

III. TWELVE-MONTH AFFILIATION REQUIREMENT.

In order to have been an eligible candidate for designation a person must have been "affiliated with" that particular political party for the 12 months immediately preceding the date of the assembly. Murphey v. Trott, 160 Colo. 336, 417 P.2d 234 (1966).

And in order to have been affiliated with a political party for the 12 months immediately preceding the assembly of that party, the petitioner for a party candidacy must have filed in the new county to which he had moved the certificate proving his prior affiliation at the time he registered in the new county. Murphey v. Trott, 160 Colo. 336, 417 P.2d 234 (1966).

Affiliation provisions mandatory. Unless a person comes under the affiliation provisions, he may not be designated as a party candidate even though he may have been mistakenly designated by a county assembly as a primary nominee and even though he may have been selected by the voters at the primary election to be the party candidate. Ray v. Mickelson, 196 Colo. 325, 584 P.2d 1215 (1978).

Also the provisions for designation of candidates by assembly by petition require registration of a person on the books of the county clerk and recorder as a member of a particular political party as a condition of eligibility for designation as a candidate of that party for public office. Anderson v. Kilmer, 134 Colo. 270, 302 P.2d 185 (1956).

And candidate not eligible if he does not meet this requirement. Under the provisions for designation of candidates by assembly and by petition, a person who has not been registered as a member of the political party under which he seeks designation for public office, for a period of one year prior to the date of the party assembly, is not eligible for designation as a candidate. Anderson v. Kilmer, 134 Colo. 270, 302 P.2d 185 (1956).

It is clear that the clerk's record must itself indicate the affiliation of the person with the political party for at least one year prior to the date of the assembly. Spain v. Fischahs, 143 Colo. 464, 354 P.2d 502 (1960).

Also, the record of the clerk and recorder cannot be supplemented or enlarged in any way by parol evidence. Spain v. Fischahs, 143 Colo. 464, 354 P.2d 502 (1960).

1-4-602. Delegates to party assemblies - definition.

(1) (a) (I) Except as provided in subsection (1)(a)(IV) of this section, county assemblies must be held no later than twenty-one days after precinct caucuses. The county central committee or executive committee shall fix the number of delegates from each precinct to participate in the county assembly pursuant to the procedure for the selection of delegates contained in the state party central committee's bylaws or rules. The persons receiving the highest number of votes at the precinct caucus shall be the delegates to the county assembly from the precinct. If two or more candidates receive an equal number of votes for the last available place in the election of delegates to county assemblies at the precinct caucuses, the delegate must be determined by lot by the candidates. Except as provided in subsections (2) and (6) of this section, delegates to all other party assemblies shall be selected by the respective county assemblies from among the members of the county assemblies pursuant to the state party central committee's bylaws or rules.

(II) and (III) Repealed.

(IV) If allowed by the party's rules, a county assembly may be held on the same day as precinct caucuses on a date allowed pursuant to section 1-3-102 (1)(a)(I). The county central committee or executive committee shall notify the secretary of state and the clerk and recorder of each county of the decision on or before January 2 of the year in which the election will be held.

(b) In determining the number of delegates from precincts which have been created or split since the previous general election, the county central committee or executive committee may allocate delegates based on the number of registered voters affiliated with the political party, pursuant to the state party central committee's bylaws or rules.

(2) (a) In each state senatorial and representative district comprised of a portion of one county only, persons elected at precinct caucuses as delegates to the county assemblies shall serve also as delegates to the senatorial and representative district assemblies.

(b) In each state senatorial and representative district comprised of one or more whole counties and a portion of one or more counties or comprised of portions of two or more counties, the number of delegates to the senatorial and representative district assemblies shall be apportioned among the counties by the party's senatorial or representative central committee according to the vote in the county or portion of a county for that party's candidate for governor

or president in the last general election, pursuant to the state party central committee's bylaws or rules.

(3) All questions regarding the qualifications of any delegate or the conduct of any precinct caucus at which the delegates were voted on shall be determined by the credentials committees of the respective party county, representative, and senatorial assemblies.

(4) (a) All places established for holding precinct caucuses shall be designated by a sign conspicuously posted no later than twelve days before the precinct caucuses. The sign shall be substantially in the following form: "Precinct caucus place for precinct no. ....." The lettering on the sign and the precinct number shall be black on a white background with all letters and numerals at least four inches in height. Any precinct caucus subsequently removed and held in a place other than the place stated on the sign is null and void.

(b) Repealed.

(5) As used in this section, "delegate" means a person who is a registered elector, has been a resident of the precinct for twenty-two days prior to the caucus, and has been affiliated with the political party holding the caucus for at least twenty-two days, as shown in the statewide voter registration system; except that any registered elector who has attained the age of eighteen years during the twenty-two days immediately preceding the caucus or any registered elector who has become a naturalized citizen during the twenty-two days immediately preceding the caucus may be a delegate even though the elector has been affiliated with the political party for less than twenty-two days as shown in the statewide voter registration system. A delegate who moves from the precinct where registered during the twenty-one days prior to any caucus is ineligible to serve as a delegate from that precinct.

(6) In each state senatorial and representative district comprised of all or parts of more than one county, persons elected at precinct caucuses as delegates to the county assemblies from precincts within the senatorial or representative district shall also serve as delegates to the senatorial and representative district assemblies if the senatorial or representative district central committee, by resolution adopted prior to the holding of the precinct caucuses in the year for which the resolution is to be effective, chooses to have the delegates to its district assembly in that year elected as provided in this subsection (6); except that selection of delegates under this subsection (6) shall be in conformance with the procedure established in the state party central committee's bylaws or rules. As a part of the resolution, the senatorial or representative central committee may determine the total number of delegate votes to be cast at the senatorial or representative district assembly, apportion them by county among the portions of the district which lie in separate counties upon an equitable basis determined by party bylaws or rules, and, upon the basis of the apportionment, determine the factor necessary to apportion equally among the delegates from the precincts within the district in each county the total votes to be cast by delegates from the portion of the district lying within that county.

(7) Notwithstanding any provision to the contrary, a participant at a county assembly may participate remotely, including casting the participant's vote by email, mail, telephone, or through an internet-based application if allowed by the party's rules.

Source: L. 80: Entire article R&RE, p. 326, § 1, effective January 1, 1981. **L. 82:** (5) amended, p. 217, § 2, effective February 19. **L. 85:** (1) amended, p. 256, § 8, effective May 31; (1) amended, p. 248, § 5, effective July 1. **L. 91:** (5) amended, p. 620, § 34, effective May 1. **L. 92:** Entire part amended, p. 679, § 6, effective January 1, 1993. **L. 94:** (5) amended, p. 1768, § 24, effective January 1, 1995. **L. 95:** (5) amended, p. 830, § 28, effective July 1. **L. 96:** (1), (2)(b), and (6) amended, p. 1738, § 20, effective July 1. **L. 98:** (1) amended, p. 633, § 5, effective May 6. **L. 99:** (1)(a), (4), and (5) amended, p. 763, § 21, effective May 20; (1)(a) amended, p. 100, § 2, effective August 4. **L. 2002:** (1)(a) and (4) amended, p. 133, § 4, effective March 27. **L. 2005:** (1)(a)(I) amended, p. 1398, § 15, effective June 6; (1)(a)(I) amended, p. 1433, § 15, effective June 6. **L. 2007:** (1)(a)(I) amended, p. 1989, § 4, effective August 3. **L. 2011:** (1)(a)(I) amended, (SB 11-189), ch. 243, p. 1063, § 8, effective May 27. **L. 2016:** (5) amended, (SB 16-142), ch. 173, p. 576, § 29, effective May 18. **L. 2019:** (5) amended, (HB 19-1278), ch. 326, p. 3010, § 17, effective August 2. **L. 2020:** (1)(a)(I) amended and (1)(a)(III) added, (HB 20-1359), ch. 23, p. 84, § 4, effective March 16. **L. 2021:** (1)(a)(I) amended and (1)(a)(IV) and (7) added, (SB 21-250), ch. 282, p. 1639, § 16, effective June 21.

Editor's note: (1) The provisions of this section are similar to several former provisions of § 1-14-205 as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsection (1) by Senate Bill 85-86 and House Bill 85-1063 were harmonized.

(3) Amendments to subsection (1)(a) by Senate Bill 99-025 and Senate Bill 99-027 were harmonized.

(4) Subsection (1)(a)(II)(B) provided for the repeal of subsection (1)(a)(II), effective July 1, 2002. (See L. 2002, p. 133.)

(5) Subsection (4)(b)(II) provided for the repeal of subsection (4)(b), effective July 1, 2002. (See L. 2002, p. 133.)

(6) Subsection (1)(a)(III)(B) provided for the repeal of subsection (1)(a)(III), effective December 31, 2020. (See L. 2020, p. 84.)

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Applied in Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982).

1-4-603. Designation of major political party candidates by petition.

Candidates for major political party nominations for the offices specified in section 1-4-502 (1) that are to be made by primary election may be placed on the primary election ballot by petition, as provided in part 8 of this article.

Source: L. 80: Entire article R&RE, p. 328, § 1, effective January 1, 1981. **L. 83:** (3), (6), and (8) amended, p. 353, § 17, effective July 1. **L. 85:** (2)(a), (2)(b), (3), (4), and (8) amended and (2)(d) added, p. 257, § 9, effective May 31. **L. 88:** (2)(a) and (2)(b) amended, p. 297, § 2, effective January 1, 1989. **L. 89:** (3) amended and (5.5) and (9) added, p. 302, § 8, effective May 9. **L. 91:** (2) amended, p. 621, § 35, effective May 1. **L. 92:** Entire part amended, p. 681, § 6, effective January 1, 1993. **L. 98:** Entire section amended, p. 257, § 8, effective April 13. **L. 2000:** Entire section amended, p. 2028, § 3, effective August 2.

Editor's note: This section is similar to former § 1-14-207 as it existed prior to 1980.

ANNOTATION

I. General Consideration.

II. Electors Signing Petition.

III. Oath and Affidavit.

IV. Affiliation Required.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

In addition to nominees designated by party assembly, a party member desirous of the party's nomination at the primary election may become a candidate by filing a petition signed by the requisite number of the electors of his party residing within the district from which he seeks to be elected. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

And it is permissible and possible for several candidates for the party's

nomination to be placed on the primary ballot by this procedure. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

The purpose in allowing nominations by individuals is to confer upon electors the right to place candidates in nomination under some party name which they might choose, representing a principle which they desired to support at the polls. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

II. ELECTORS SIGNING PETITION.

Certificates not having the requisite number of names have no effect to nominate candidates, and can only be made valid by the addition of names within the time required by law to make nominations by individuals. Whipple v. Kleckner, 25 Colo. 423, 55 P. 163 (1898); O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

All duplicate names on certificates for the same candidates for the same office must be eliminated. The certificates nominating candidates for the legislative and senatorial districts did not contain the requisite number of names to make a nomination by individuals, for the obvious reason that all duplicate names on these certificates for the same candidates for the same office must be eliminated. Hence, they were invalid. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

III. OATH AND AFFIDAVIT.

Voter must not only sign petition but must also sign the oath, and a failure so to do invalidates the certificate. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

The signature of the elector, statement of residence, and the oath that the subscriber is an elector are matters of substance. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

Each requirement is to be a check upon the making of false or fraudulent certificates, and to enable anyone inspecting a certificate to discover the residence of the subscriber. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

The oath required is a matter of substance, as affording prima facie proof that the persons so subscribing the certificate did, in fact, subscribe the certificate, and are, in fact, electors of the state. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

These requirements are essential. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

Where no affidavit is made, the alleged certificate of nomination is void and of no force or effect, and no duty rested upon defendant as town clerk to file same or place the names of the candidates mentioned therein upon the ballot. Ballew v. Hartman, 118 Colo. 476, 196 P.2d 870 (1948).

Petitions for nomination of candidates held insufficient, where the affidavit attached to each, although sworn to, was not signed by the signers of the petition. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906); Stephen v. Lail, 80 Colo. 49, 248 P. 1012 (1926).

Where the original petition is void because the oath was not signed by the voters, that portion of it assuming to appoint a committee to fill vacancies is likewise void, and such alleged committee has no power to act. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

IV. AFFILIATION REQUIRED.

The provisions for designation of candidates by petition and by party assembly require that a person shall be affiliated for one year with the party in which he seeks to become a candidate for public office. Anderson v. Kilmer, 134 Colo. 270, 302 P.2d 185 (1956).

And the county clerk's record must indicate the affiliation of that person with the political party for at least one year prior to the date of the assembly at which he seeks designation as a candidate for office. Spain v. Fischahs, 143 Colo. 464, 354 P.2d 502 (1960).

The record of the county clerk cannot be supplemented or enlarged by parol evidence. Spain v. Fischahs, 143 Colo. 464, 354 P.2d 502 (1960).

1-4-604. Filing of petitions and certificates of designation by assembly - legislative declaration.

(1) (a) Every petition or certificate of designation by assembly in the case of a candidate for nomination for any national or state office specified in section 1-4-502 (1), or for member of the general assembly, district attorney, or district office greater than a county office, together with the written acceptances signed by the persons designated or nominated by such assembly described in section 1-4-601 (3), shall be filed by the presiding officer or secretary of such assembly and received in the office of the secretary of state.

(b) A copy of each such certificate of designation shall be transmitted by the presiding officer or secretary of each assembly to the state central committee of the political party holding such assembly within three days after the adjournment of such assembly.

(2) Every petition or certificate of designation by assembly in the case of a candidate for nomination for any elective office other than the offices specified in paragraph (a) of subsection (1) of this section shall be filed in the office of the county clerk and recorder of the county where the person is a candidate.

(3) Certificates of designation by assembly shall be filed no later than four days after the adjournment of the assembly.

(4) (Deleted by amendment, L. 99, p. 764, § 22, effective May 20, 1999.)

(5) Late filing of the certificate of designation shall not deprive candidates of their candidacy.

(6) (a) (I) Except as provided in subsection (6)(a)(II) of this section, no later than four days after the adjournment of the assembly, the state central committee of each political party, utilizing the information described in subsection (1)(b) of this section, shall file with the secretary of state a compilation of the certificates of designation of each assembly that nominated candidates for any national or state office or for member of the general assembly, district attorney, or district office greater than a county office. Such a compilation of certificates of designation may be transmitted by facsimile transmission; however, the original compilation must also be filed and postmarked no later than ten days after the adjournment of the assembly.

(II) Repealed.

(b) The secretary of state shall compare such party compilation of certificates of designation with the certificates of designation filed by each such assembly with the secretary of state's office pursuant to paragraph (a) of subsection (1) of this section. In the event that a certificate of designation appearing on such party compilation has not been filed pursuant to paragraph (a) of subsection (1) of this section, the secretary of state shall notify the state central committee of such party not less than fifty-seven days before the primary election of an assembly's failure to file such certificate of designation.

(c) A state central committee that receives notification pursuant to paragraph (b) of this subsection (6) shall file, or direct the presiding officer of the assembly to file, the certificate of designation, together with any written acceptances, not less than fifty-six days before the primary election.

(d) The general assembly hereby finds and declares that it is beneficial to improve the procedure and timeliness for communicating the designation of candidates for the primary election ballot by political party assemblies between the officers of such assemblies, the state central committee of each political party, and the secretary of state. The general assembly further finds that prescribing certain additional review processes for the documentation evidencing designations and nominations of candidates that are not onerous will serve to minimize the likelihood of a candidate being deprived of his or her candidacy and of an erroneous primary election ballot. The general assembly further encourages the responsible officials to engage in the enhanced communication and review described in this subsection (6) well in advance of statutorily prescribed deadlines or ballot certification dates, if possible, in order to maximize the time for giving notice and resolving any issues that may arise from the primary ballot nomination process.

Source: L. 80: Entire article R&RE, p. 329, § 1, effective January 1, 1981. **L. 81:** Entire section amended, p. 310, § 2, effective March 27. **L. 87:** Entire section amended, p. 287, § 9, effective June 26. **L. 89:** Entire section amended, p. 303, § 9, effective May 9. **L. 92:** Entire part amended, p. 682, § 6, effective January 1, 1993. **L. 99:** Entire section amended, p. 286, § 2,

effective April 13; entire section amended, p. 764, § 22, effective May 20. **L. 2000:** (1)(a) amended, p. 2028, § 4, effective August 2. **L. 2020:** (6)(a) amended, (HB 20-1359), ch. 23, p. 85, § 5, effective March 16. **L. 2026:** (3) amended, (HB 26-1113), ch. 267, p. 1494, § 21, effective June 1.

Editor's note: (1) This section is similar to former § 1-14-208 as it existed prior to 1980.

(2) Amendments to this section by Senate Bill 99-025 and House Bill 99-1225 were harmonized.

(3) Subsection (6)(a)(II)(B) provided for the repeal of subsection (6)(a)(II), effective December 31, 2020. (See L. 2020, p. 85.)

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Although boundaries of judicial district are coincident with those of county, certificate should be filed with secretary of state. Under the provision that a certificate of nomination for an office to be filled by the voters of a district office greater than a county office shall be filed with the secretary of state, a certificate of nomination for the office of district attorney of a judicial district should be filed with the secretary of state, notwithstanding the boundaries of the district were coincident with those of the county. Brown v. Van Cise, 69 Colo. 242, 193 P. 495 (1920).

Clerk who wrongfully refuses to accept certificate may be commanded to file certificate as of the date of presentment. The county clerk had wrongfully refused to accept a certificate making nominations for an approaching election. In view of the brief time intervening between the hearing and the day appointed for the election, the court, to avoid the delays which must attend a remand of the cause, gave judgment commanding the county clerk to file the certificate as of the date upon which it was presented, and proceed in the matter as required by law. McBroom v. Brown, 53 Colo. 412, 127 P. 957 (1912).

Petitioner's name allowed to appear on ballot. Where the secretary of state accepted and approved the petition filed by petitioner, and no objections were filed as to the validity of his petition, there was no issue in reference to his right to appear on the primary ballot as a candidate by petition and his name did appear. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

1-4-605. Order of names on primary ballot.

Candidates designated and certified by assembly for a particular office shall be placed on the primary election ballot in the order of the vote received at the assembly. The candidate receiving the highest vote shall be placed first in order on the ballot, followed by the candidate receiving the next highest vote, and so on until all of the candidates designated have been placed on the ballot. The names of two or more candidates receiving an equal number of votes for designation by assembly shall be placed on the primary ballot in the order determined by lot in accordance with section 1-4-601 (2). Candidates by petition for any particular office shall follow assembly candidates and shall be placed on the primary election ballot in an order established by lot.

Source: L. 80: Entire article R&RE, p. 329, § 1, effective January 1, 1981. **L. 85:** Entire section amended, p. 258, § 10, effective May 31. **L. 92:** Entire part amended, p. 683, § 6, effective January 1, 1993.

Editor's note: This section is similar to former § 1-14-209 as it existed prior to 1980.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Petitioner's name allowed to appear on ballot. Where the secretary of state accepted and approved the petition filed by petitioner and no objections were filed as to the validity of his petition, there was no issue in reference to his right to appear on the primary ballot as a candidate by petition and his name did appear. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

The fact that several candidates have been designated by the party assembly does not preclude a petition candidate from having his petition accepted by the secretary of state (or county clerk, as the case may be) and his name listed as a candidate for his party's nomination on the primary ballot. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

PART 7

CONVENTIONS - POLITICAL PARTY NOMINATIONS

1-4-701. Party nominations to be made by convention.

(1) Any convention of delegates of a political party or any committee authorized by resolution of the convention may nominate candidates for vacancies to unexpired terms of representatives in congress and for presidential electors and also may select delegates to national political conventions.

(2) (a) The certificate of nomination shall contain the name of the office for which each person is nominated and the person's name and address and shall designate, in not more than three words, the political party which the convention or committee represents.

(b) No certificate of nomination shall contain the names of more candidates for any office than there are offices to fill. If any certificate does contain the names of more candidates than there are offices to fill, only those names which come first in order on the certificate and are equally numbered with the number of offices to be filled shall be taken as nominated. No person shall sign more than one certificate of nomination for any office.

(c) When the nomination is made by a committee, the certificate of nomination shall also contain a copy of the resolution passed at the convention which authorized the committee to make the nomination.

(d) In the case of presidential electors, the names of the candidates for president and vice president may be added to the name of the political party in the certificate of nomination.

(3) Certificates of nomination shall be received and filed with the secretary of state no later than sixty days before the general or congressional vacancy election.

(4) Any person nominated in accordance with this section by any of the major political parties shall be deemed to have accepted the nomination unless the candidate files with the secretary of state a written declination of the nomination no later than four days after the adjournment of the convention. The declination may be transmitted by facsimile transmission no later than four days after the adjournment of the convention. If the declination is transmitted by facsimile transmission, the original declination must also be filed and postmarked no later than ten days after the adjournment of the convention.

Source: L. 80: Entire article R&RE, p. 329, § 1, effective January 1, 1981. **L. 85:** (3) amended, p. 248, § 6, effective July 1. **L. 88:** (4) amended, p. 1429, § 1, effective June 11. **L. 92:** Entire part amended, p. 683, § 6, effective January 1, 1993. **L. 99:** (3) and (4) amended, p. 764, §

23, effective May 20. **L. 2012:** (4) amended, (HB 12-1292), ch. 181, p. 680, § 12, effective May 17.

Editor's note: The provisions of this section are similar to several former provisions of § 1-14-107 as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For methods of nomination, see §§ 1-4-502 and 1-4-503; for objections to nominations, see § 1-4-909.

ANNOTATION

I. General Consideration.

II. More Candidates Than Offices to Fill.

III. Filing Certificates with Secretary of State.

IV. Miscellaneous.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The provision for acceptance of a nomination is so plain that it needs no construction other than that which its own language imports. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

No convention or body of men can compel another to be a candidate for office against his will. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

Only the political parties have the right to nominate by a convention or nominating committee. Schafer v. Whipple, 25 Colo. 400, 55 P. 180 (1898).

Nominees by either of the two leading political parties are not required to file an acceptance. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

II. MORE CANDIDATES THAN OFFICES TO FILL.

The purpose of limiting the number of names on a certificate of nomination to the number of offices to be filled is to prevent the same persons nominating candidates for the same office by certificate as individuals under two or more party names. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

An elector once having exercised the right to join in a certificate as an individual, nominating a candidate for office under some name adopted by the signers, cannot join in nominating the same person for the same office under some other name. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

III. FILING CERTIFICATES WITH SECRETARY OF STATE.

Certificates of nomination must be presented for filing at the office of the secretary of state to some person in charge thereof during business hours. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

Certificates not filed in office of the secretary of state. Certain alleged certificates of nomination to fill vacancies were handed for filing to the secretary of state, on board a train bound for another city, at the union depot in Denver, preceding the general election to be held on November 6. It was held, that such action did not constitute a legal filing of such certificates, as of that date, it being necessary to tender such certificates for filing at the office of the secretary of state to some person in charge during business hours. Cowie v. Means, 39 Colo. 1, 88 P. 485 (1906).

IV. MISCELLANEOUS.

The convention revoked nomination power of the committee. A party convention sat two days, and on the first day it adopted a resolution empowering a committee to nominate the ticket which it had assembled; on the second day, without expressly rescinding the resolution, it proceeded to nominate a full ticket and then adjourned sine die. It was held that the action of the convention on the second day was a revocation of the power delegated to the committee. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

Secretary of state has no power to decide between two sets of nominations. When two sets of nominations, both by conventions purporting to have been held by the same political party, and each in apparent conformity with this section, are certified to the secretary of state, he has no power to decide between them, but should certify both tickets to the county clerks in order that both may be printed upon the official ballots. People ex rel. Eaton v. Dist. Court, 18 Colo. 26, 31 P. 339 (1892).

1-4-702. Nominations of candidates for general election by convention.

(1) Notwithstanding any other provision of law, a political party may choose to change from the nomination of candidates by primary election to the nomination of candidates by assembly or convention for all offices including, but not limited to, united states senator, representative in congress, all elective state, district, and county officers, and members of the general assembly if at least three-fourths of the total membership of the party's state central committee votes to use the assembly or convention nomination process; except that nominations by major political parties for candidates for lieutenant governor shall be made by the party's candidate for governor pursuant to section 1-4-502 (3). Such vote of the party central committee shall occur no later than October 1 of the year preceding the year in which an assembly or convention nominating process is to be used.

(2) A political party nominating candidates by party assembly or convention shall nominate the candidates of the party and make such nominations public not later than seventy-five days before the general election.

(3) Whichever method of candidate selection is chosen by a major political party as between primary election, assembly or convention, all of the candidates for that party at any level of office in that election year must be selected by such method, except that the requirements of this provision shall not apply to a primary for president of the united states if such an election is held.

Source: Initiated 2016: Entire section added, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2823.

Editor's note: This section was added by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

Cross references: For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

ANNOTATION

Law reviews. For article, "Colorado Election Law Update", see 46 Colo. Law. 53 (Aug.-Sept. 2017).

PART 8

NOMINATION OF CANDIDATES BY PETITION

Editor's note: Articles 1 to 13 were repealed and reenacted in 1980, and this part 8 was subsequently repealed and reenacted in 1992, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 8 prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the title heading. Former C.R.S. section

numbers are shown in editor's notes following those sections that were relocated in 1992. For a detailed comparison of articles 1 to 13 for 1980 and of this part 8 for 1992, see the comparative tables located in the back of the index.

1-4-801. Designation of party candidates by petition.

(1) Candidates for political party nominations to be made by primary election may be placed on the primary election ballot by petition. Every petition to nominate candidates for a primary election shall state the name of the office for which the person is a candidate and the candidate's name and address and shall designate in not more than three words the name of the political party which the candidate represents. No petition shall contain the name of more than one person for the same office.

(2) The signature requirements for the petition are as follows:

(a) Every petition in the case of a candidate for any county office must be signed by electors eligible to vote within the county commissioner district or political subdivision for which the officer is to be elected. Except as otherwise provided in subsection (2)(e) of this section, the petition requires the lesser of one thousand signers or signers equal in number to ten percent of the votes cast in the political subdivision at the contested or uncontested primary election for the political party's candidate for the office for which the petition is being circulated or, if there was no primary election, at the last preceding general election for which there was a candidate for the office. Notwithstanding any other provision of law, an unaffiliated elector is not eligible to sign a petition for a candidate of a major political party.

(a.5) Every petition in the case of a candidate for a member of the United States house of representatives, member of the state board of education for a congressional district, or member of the board of regents of the university of Colorado for a congressional district must be signed by eligible electors resident within the district for which the officer is to be elected. The petition requires the lesser of one thousand five hundred signers or signers equal in number to ten percent of the votes cast in the district at the contested or uncontested primary election for the political party's candidate for the office for which the petition is being circulated or, if there was no primary election, at the last preceding general election for which there was a candidate for the office.

(b) Every petition in the case of a candidate for member of the general assembly or any district office greater than a county office must be signed by eligible electors resident within the district for which the officer is to be elected. The petition requires the lesser of one thousand signers or signers equal to thirty percent of the votes cast in the district at the contested or uncontested primary election for the political party's candidate for the office for which the petition is being circulated or, if there was no primary election, at the last preceding general election for which there was a candidate for the office.

(b.5) Every petition in the case of a candidate for the office of district attorney must be signed by eligible electors resident within the district for which the officer is to be elected. The petition requires the lesser of one thousand signers or signers equal in number to ten percent of the votes cast in the district at the contested or uncontested primary election for the political party's candidate for the office for which the petition is being circulated or, if there was no primary election, at the last preceding general election for which there was a candidate for the office.

(c) (I) Repealed.

(II) Every petition in the case of a candidate for the office of governor or the office of United States senator must be signed by at least one thousand five hundred eligible electors in each congressional district.

(c.5) Every petition in the case of a candidate for the office of secretary of state, attorney general, or state treasurer must be signed by at least one thousand eligible electors in each congressional district.

(c.7) Every petition in the case of a candidate for the office of an at-large seat on either the state board of education or the board of regents of the university of Colorado must be signed by at least five hundred eligible electors in each congressional district.

(d) (Deleted by amendment, L. 93, p. 1405, § 29, effective July 1, 1993.)

(e) Where the electors of the county have voted to increase the membership of the board of county commissioners from three to five pursuant to section 30-10-306.5, C.R.S., or to decrease the membership of the board from five to three pursuant to section 30-10-306.7, C.R.S., for the next two primary elections immediately following an election at which the voters have approved the change in the membership of the board, the signature requirements for the petition are as follows:

(I) Where any one or more commissioners to be elected to the board of county commissioners will be voted on by voters of the whole county, every petition must require signers equal in number to twenty percent of the average of all votes cast in each commissioner district in the county during the prior two contested or uncontested primary elections for the political party's candidates in each county commissioner district that held a primary election in either of those elections. If no primary election was held in either year, the calculation must be based on the most recent preceding general election for which the party had a candidate on the ballot, and every petition must require signers equal in number to twenty percent of the average of all votes cast for the political party's candidates for commissioner in each commissioner district in which the party had a candidate on the ballot.

(II) Where any one or more commissioners to be elected to the board of county commissioners will be voted on only by the electors residing in a particular county commissioner

district, the determination of the required number of signers must begin with a calculation of the average of all votes cast in each commissioner district in the county during the prior two contested or uncontested primary elections for the political party's candidates in the county commissioner districts that held a primary election in either of those elections. Upon a determination of the average, that number must then be divided by the total number of commissioner districts in the county where commissioners are voted on only by the electors residing in the district, whether three or five. After completing this calculation, every petition must require signers equal in number to twenty percent of the number realized. If no primary election was held in either year, the calculation must be based on the most recent preceding general election for which the party had a candidate on the ballot, and every petition must require signers equal in number to the following calculation:

(A) Twenty percent of the average of all votes cast for the political party's candidates for commissioner in each commissioner district in which the party had a candidate on the ballot; and

(B) Divide the number found in sub-subparagraph (A) of this subparagraph (II) by the total number of commissioner districts in the county where commissioners are voted on only by the electors residing in the district, whether three or five.

(f) Following the first two primary elections that are conducted after a change in the membership of the board of county commissioners pursuant to section 30-10-306.5 or 30-10-306.7, C.R.S., in accordance with the requirements of paragraph (e) of this subsection (2), the signature requirements for a petition for a county commissioner candidate who is affiliated with a major political party must follow the procedures specified in paragraph (a) of this subsection (2).

(3) No person shall be placed in nomination by petition on behalf of any political party unless the person was affiliated with the political party, as shown in the statewide voter registration system, no later than the first business day of the January immediately preceding the election for which the person desires to be placed in nomination.

(4) No person who attempted and failed to receive at least ten percent of the votes for the nomination of a political party assembly for a particular office shall be placed in nomination by petition on behalf of the political party for the same office.

(5) (a) Party petitions shall not be circulated nor any signatures be obtained prior to the first business day in January. Petitions must be filed no later than the close of business on the third Tuesday in March, or on the seventy-fifth day after the first business day in January, whichever is later.

(b) Repealed.

(6) A candidate for a presidential primary election shall not begin circulating petitions before the first Monday in November of the year preceding the year in which the presidential primary

election is held. A candidate must file a petition no later than the close of business on the eighty-fifth day before the date of the presidential primary election.

Source: L. 92: Entire part R&RE, p. 684, § 7, effective January 1, 1993. **L. 93:** (2) amended, p. 1405, § 29, effective July 1. **L. 98:** (2)(a) to (2)(c) amended, p. 634, § 6, effective May 6. **L. 99:** (5) amended, p. 764, § 24, effective May 20. **L. 2000:** (1) amended, p. 2029, § 5, effective August 2. **L. 2005:** (5) amended, p. 1399, § 16, effective June 6; (5) amended, p. 1434, § 16, effective June 6. **L. 2010:** (3) amended, (HB 10-1271), ch. 324, p. 1502, § 4, effective May 27. **L. 2011:** (5) amended, (SB 11-189), ch. 243, p. 1064, § 9, effective May 27. **L. 2013:** (2)(a) amended and (2)(e) and (2)(f) added, (SB 13-243), ch. 268, p. 1410, § 1, effective May 24. **L. 2016:** (3) amended, (SB 16-142), ch. 173, p. 576, § 30, effective May 18. **Initiated 2016:** (6) added, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2820. **L. 2017:** (5) amended, (SB 17-209), ch. 234, p. 946, § 2, effective August 9. **L. 2018:** (2)(a) amended, (SB 18-233), ch. 262, p. 1607, § 10, effective May 29. **L. 2019:** (2)(a), (2)(b), (2)(c)(II), and (6) amended and (2)(a.5), (2)(b.5), (2)(c.5), and (2)(c.7) added, (HB 19-1278), ch. 326, p. 3011, § 18, effective August 2. **L. 2020:** (5) amended, (HB 20-1359), ch. 23, p. 85, § 6, effective March 16. **L. 2021:** (5)(a) and (6) amended, (SB 21-250), ch. 282, p. 1640, § 17, effective June 21. **L. 2024:** (5)(a) amended, (HB 24-1067), ch. 51, p. 180, § 3, effective August 7.

Editor's note: (1) The provisions of this section are similar to several former provisions of § 1-4-603 as they existed prior to 1992. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Subsection (2)(c)(I)(B) provided for the repeal of subsection (2)(c)(I), effective January 1, 1999. (See L. 98, p. 634.)

(3) This section was amended by initiative in 2016. The vote count on Proposition 107 at the general election held November 8, 2016, was as follows:

FOR: 1,701,599

AGAINST: 953,246

(4) Subsection (5)(b)(II) provided for the repeal of subsection (5)(b), effective December 31, 2020. (See L. 2020, p. 85.)

Cross references: (1) For the declaration of the people of Colorado in Proposition 107, see section 1 on p. 2815, Session Laws of Colorado 2017. For the legislative declaration in HB 24-1067, see section 1 of chapter 51, Session Laws of Colorado 2024.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Law reviews. For article, "COVID-19 Comes to the Colorado Supreme Court", see 99 Denv. L. Rev. 295 (2022).

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

In addition to nominees designated by party assembly, a party member desirous of the party's nomination at the primary election may become a candidate by filing a petition signed by the requisite number of the electors of his party residing within the district from which he seeks to be elected. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

And it is permissible and possible for several candidates for the party's nomination to be placed on the primary ballot by this procedure. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

Minimum signature mandates of this section require strict compliance. The "substantial compliance" standard does not apply because the mandates are not mere technical requirements but rather minimum thresholds that the legislature has declared must be met. A candidate cannot be certified to the ballot with fewer signatures than required. Griswold v. Ferrigno Warren, 2020 CO 34, 462 P.3d 1081.

1-4-802. Petitions for nominating minor political party and unaffiliated candidates for a partisan office.

(1) Candidates for partisan public offices to be filled at a general election who do not wish to affiliate with a major political party, and candidates for a congressional vacancy election who do not wish to affiliate with any political party, may be nominated, other than by a primary election or a convention, in the following manner:

(a) A petition for nominating minor political party or unaffiliated candidates shall be prepared, indicating the name and address of any candidate for the office to be filled. The petition shall indicate the name of the minor political party or designate in not more than three words the political or other name selected by the signers to identify an unaffiliated candidate. No name of any political party shall be used, in whole or in part, to identify an unaffiliated candidate.

(b) Each petition must contain only the name of one candidate for one office; except that any petition for a candidate for president of the United States must also include a candidate for vice president, and a candidate for governor must also include a candidate for lieutenant governor,

and together they shall be considered joint candidates at the general election. In the case of nominations for president and vice president of the United States, the joint candidates shall submit a list of presidential electors endorsed by the electors, and the names of the presidential electors must be added to the petition.

(c) Every petition for the office of president and vice president, for statewide office, for congressional district office, for the office of member of the general assembly, for district attorney, and for county office must be signed by eligible electors residing within the district or political subdivision in which the officer is to be elected. Except as otherwise provided in subsection (2) of this section, the number of signatures of eligible electors on a petition is as follows:

(I) At least one thousand five hundred in each congressional district for the office of president and vice president;

(II) (A) At least one thousand in each congressional district for the offices of governor, secretary of state, attorney general, or treasurer, or the office of United States senator;

(B) At least five hundred in each congressional district for the office of an at-large seat on either the state board of education or the board of regents of the university of Colorado;

(III) The lesser of one thousand five hundred or two and one-half percent of the votes cast in the congressional district in the most recent general election for the office of member of the United States house of representatives, member of the state board of education for a congressional district, or member of the board of regents of the university of Colorado for a congressional district;

(IV) The lesser of one thousand or three and one-third percent of the votes cast in the senate district in the most recent general election for the office of member of the state senate;

(V) The lesser of one thousand or five percent of votes cast in the house district in the most recent general election for the office of member of the state house of representatives;

(VI) The lesser of one thousand or three percent of the votes cast in the district in the most recent general election for the office of district attorney; and

(VII) The lesser of one thousand or two percent of the votes cast for all candidates for that office in the most recent general election for any county office.

(d) (I) No petition to nominate an unaffiliated candidate, except petitions for candidates for vacancies to unexpired terms of representatives in congress, shall be circulated or any signatures obtained thereon earlier than one hundred seventy-three days before the general election.

(II) No petition to nominate a minor political party candidate shall be circulated nor any signatures obtained thereon earlier than the first business day in January in the general election year.

(e) The petition to nominate an unaffiliated candidate may designate or appoint upon its face one or more unaffiliated registered electors as a committee to fill vacancies in accordance with section 1-4-1008. However, in the case of a petition for the office of state senator or state representative, the petition shall designate or appoint upon its face three or more unaffiliated registered electors as a committee to fill vacancies in accordance with sections 1-4-1008 and 1-12-203.

(f) (I) Except as provided in subsection (1)(f)(II) of this section, petitions must be filed no later than 5 p.m. on the one hundred seventeenth day before the general election or, for a congressional vacancy election, no later than 5 p.m. on the tenth day before the deadline for the secretary of state to certify the ballot content for the election.

(II) Petitions to nominate candidates of minor political parties must be filed no later than 5 p.m. on the third Tuesday in March or on the seventy-fifth day after the first business day in January, whichever is later.

(g) (I) For congressional vacancy elections, no person shall be placed in nomination by petition unless the person is an eligible elector and was registered as affiliated with a minor political party or as unaffiliated, as shown in the statewide voter registration system, for at least twelve months prior to the last date the petition may be filed.

(II) For general elections, no person shall be placed in nomination by petition unless the person is an eligible elector of the political subdivision or district in which the officer is to be elected and unless the person was registered as affiliated with a minor political party or as unaffiliated, as shown in the statewide voter registration system, no later than the first business day of the January immediately preceding the general election for which the person desires to be placed in nomination; except that, if such nomination is for a nonpartisan election, the person shall be an eligible elector of the political subdivision or district and be a registered elector, as shown in the statewide voter registration system, on the date of the earliest signature on the petition. This section does not apply to candidates seeking the office of president of the United States.

(2) Where the electors of the county have voted to increase the membership of the board of county commissioners from three to five pursuant to section 30-10-306.5, C.R.S., or to decrease the membership of the board from five to three pursuant to section 30-10-306.7, C.R.S., for the next two general elections immediately following an election at which the voters have approved a change in the membership of the board, the signature requirements for the petition to select candidates who do not wish to affiliate with a major political party are as follows:

(a) Where any one or more commissioners to be elected to the board of county commissioners will be voted on by voters of the whole county, every petition must require signers equal in number to the lesser of either seven hundred fifty signers or two percent of the

average of all votes cast in each county commissioner district for which there was a race on the ballot during the most recent general election;

(b) Where any one or more commissioners to be elected to the board of county commissioners will be voted on only by the electors residing in a particular county commissioner district, every petition must require signers equal in number to the lesser of either:

(I) Seven hundred fifty signers; or

(II) The number realized by first determining two percent of the average of all votes cast in each county commissioner district for which there was a race on the ballot during the most recent general election, and then dividing that number by the total number of commissioner districts in the county where commissioners are voted on only by the electors residing in a district, whether three or five.

(3) Following the first two general elections that are conducted after a change in the membership of the board of county commissioners pursuant to section 30-10-306.5 or 30-10-306.7, C.R.S., the signature requirements for a petition for a county commissioner candidate who does not wish to affiliate with a major political party must follow the procedures specified in subparagraph (VI) of paragraph (c) of subsection (1) of this section.

Source: L. 92: Entire part R&RE, p. 685, § 7, effective January 1, 1993. **L. 95:** (1)(a), (1)(c), (1)(d), (1)(e), (1)(f), and (1)(g) amended, pp. 861, 885, 830, §§ 116, 2, 29, effective July 1. **L. 96:** IP(1) amended, p. 1739, § 21, effective July 1. **L. 99:** (1)(d) and (1)(f) amended, p. 764, § 25, effective May 20. **L. 2003:** IP(1), (1)(a), (1)(d), (1)(e), (1)(f), and (1)(g) amended, p. 1310, § 7, effective April 22. **L. 2005:** (1)(d) and (1)(f) amended, p. 1399, § 17, effective June 6; (1)(d) and (1)(f) amended, p. 1434, § 17, effective June 6. **L. 2010:** (1)(g) amended, (HB 10-1271), ch. 324, p. 1503, § 5, effective May 27. **L. 2011:** (1)(d) and (1)(f) amended, (SB 11-189), ch. 243, p. 1064, § 10, effective May 27. **L. 2012:** (1)(b), (1)(d)(I), and (1)(f)(I) amended, (HB 12-1292), ch. 181, p. 680, § 13, effective May 17. **L. 2013:** IP(1)(c) amended and (2) and (3) added, (SB 13-243), ch. 268, p. 1411, § 2, effective May 24. **L. 2016:** (1)(g) amended, (SB 16-142), ch. 173, p. 576, § 31, effective May 18. **L. 2017:** (1)(e) amended, (SB 17-209), ch. 234, p. 962, § 8, effective August 9. **L. 2019:** (1)(c) amended, (HB 19-1278), ch. 326, p. 3012, § 19, effective August 2. **L. 2021:** (1)(b) and (1)(f)(II) amended, (SB 21-250), ch. 282, p. 1640, § 18, effective June 21. **L. 2024:** (1)(d), (1)(f), and (1)(g)(II) amended, (SB 24-210), ch. 468, p. 3244, § 10, effective June 6 (see editor's note). **L. 2026:** IP(1) and (1)(f)(I) amended, (HB 26-1113), ch. 267, p. 1494, § 22, effective June 1.

Editor's note: (1) This section is similar to former § 1-4-801 as it existed prior to 1992.

(2) Section 61 of chapter 468, Session Laws of Colorado 2024, provides that amendments to subsections (1)(d)(II) and (1)(f)(II) by SB 24-210 take effect on January 1, 2025, and the remainder of the act changing this section takes effect on June 6, 2024.

Cross references: (1) For filling vacancies in a nomination for an unaffiliated candidate, see § 1-4-1002 (4) and (5).

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

I. General Consideration.

II. Purpose.

III. Requisites for Nomination.

IV. Requirements of Section.

V. Filing.

VI. Protection of Name of Party.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Constitutional Law", which discusses a Tenth Circuit decision dealing with minor party ballot access, see 62 Den. U. L. Rev. 101 (1985). For article, "Constitutional Law", which discusses Tenth Circuit decisions dealing with minor party ballot access, see 63 Den. U. L. Rev. 247 (1986).

Annotator's note. The following annotations included cases decided under former provisions similar to this section.

The provision for nominating an independent candidate by petition shall receive such construction as will afford to the elector the greater liberty in casting his ballot. Pease v. Wilkin, 53 Colo. 404, 127 P. 230 (1912).

An appeal from the denial of an injunction to place a candidate's name on the ballot for the general election will be dismissed as moot where the election has come and gone. Thournir v. Buchanan, 710 F.2d 1461 (10th Cir. 1983).

II. PURPOSE.

The purpose of providing for nomination by petition is to permit electors to make independent nominations for public offices by petition under a name they may lawfully choose, and to vote for such nominees by that designation. Pease v. Wilkin, 53 Colo. 404, 127 P. 230 (1912).

In order to give the electors the widest possible latitude in naming candidates, candidates can be nominated by petition direct, without submitting their candidacy to a vote at the primary election. Pease v. Wilkin, 53 Colo. 404, 127 P. 230 (1912).

III. REQUISITES FOR NOMINATION.

No violation of equal protection. Requirement that each nominating petition circulated by an individual or political organization contain the name of a single candidate only does not violate equal protection. Nat'l Prohibition Party v. State of Colo., 752 P.2d 80 (Colo. 1988); Colo. Libertarian Party v. Sec'y of State, 817 P.2d 998 (Colo. 1991).

Application of that portion of subsection (1)(g) requiring a congressional candidate to be an eligible elector of the congressional district in which he seeks election violates the qualifications clause of the U.S. constitution. Campbell v. Buckley, 46 F. Supp. 2d 1115 (D. Colo. 1999), aff'd, 233 F.3d 1229 (10th Cir. 2000).

The requirement of subsection (1)(i) (now (1)(g)) that a person be registered as "unaffiliated" for a period of one year as a prerequisite for running for public office is constitutional. Thournir v. Meyer, 708 F. Supp. 1183 (D. Colo. 1989).

Legislative intent of subsection (1)(g) is clear: No unaffiliated candidate may be on the ballot unless registered as an unaffiliated voter at least 12 months prior to last date for filing applications. Conte v. Meyer, 882 P.2d 962 (Colo. 1994).

In order to make nominations by individuals two things are necessary: (1) The filing of a certificate with the proper officer substantially in the form required by law containing the requisite number of signatures of persons entitled to sign; and (2) an acceptance on the part of the candidates so named. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

Unless the latter accept, they are not nominees, and are no more candidates, or affected by the petitions filed, than if none had ever been filed. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

IV. REQUIREMENTS OF SECTION.

The electors are not required to state anything in the petition regarding the political affiliation of the nominees. Pease v. Wilkin, 53 Colo. 404, 127 P. 230 (1912).

The subscriber's character as a voter is established by affidavit; no more can be required. Benson v. Gillespie, 62 Colo. 206, 161 P. 295 (1916).

One who has accepted the nomination of a political party may be nominated by petition of independent voters, assuming a different party designation. Pease v. Wilkin, 53 Colo. 404, 127 P. 230 (1912).

The unaffiliation requirement of subsection (1)(i) (now (1)(g)) is not unconstitutional because it serves the compelling state interest of protecting the integrity of Colorado's balloting process and it does not unnecessarily or unfairly impinge on a prospective candidate's right of access to the ballot. Colo. Libertarian Party v. Sec'y of State, 817 P.2d 998 (Colo. 1991).

V. FILING.

The words "not less than" do not require full clear days. The words "not less than" prefixed to the number of days specified in the provision for nomination by petition do not require full clear days. The

time limitation is to be interpreted as if the words had been omitted. Luedke v. Todd, 109 Colo. 326, 124 P.2d 932 (1942).

Thus a certificate of nomination filed with the town clerk on February 21st would still be in time for a town election to be held on April 7th. Luedke v. Todd, 109 Colo. 326, 142 P.2d 932 (1942).

Secretary of state or deputy may pass on validity of petition. Although petitions for nominating independent candidates for offices to be voted on by the entire state are properly filed with the secretary of state, the secretary of state is not vested solely with the decision-making power in passing upon the validity of objections to such petition because the secretary of state has the power to appoint a deputy to act for the secretary if the secretary deems it necessary, and the deputy shall have full authority to act in all things relating to the office. Olshaw v. Buchanan, 186 Colo. 362, 527 P.2d 545 (1974).

VI. PROTECTION OF NAME OF PARTY.

Nominations by petitions protected in same manner as nominations by convention. The nomination, by petition, of the candidates of an organized party, authorized by such party, are to be protected to the same extent, and in the same manner, as nominations made by convention, even though such party have not sufficient strength to make nominations by convention. Philips v. Smith, 25 Colo. 456, 55 P. 184 (1898); McBroom v. Brown, 53 Colo. 412, 127 P. 957 (1912).

The authorized use by others of the name of such party, in a petition making nominations for an approaching election, even though prior in point of time to a certificate presented by the proper authorities of the party, will not prevent the filing of the latter. Philips v. Smith, 25 Colo. 456, 55 P. 184 (1898); McBroom v. Brown, 53 Colo. 412, 127 P. 957 (1912).

Name may not be appropriated by others. The name adopted by a new political party placed on a ballot by petition is not subject to appropriation by other petitioners. McBroom v. Brown, 53 Colo. 412, 127 P. 957 (1912).

Section unenforceable. In light of the Colorado Supreme Court decision in McBroom v. Brown, 53 Colo. 412, 127 P. 957 (1912), this section which distinguishes between political parties and political organizations by only allowing parties to prevent unendorsed candidates from running under the party name is unenforceable. Baer v. Meyer, 577 F. Supp. 838 (D. Colo. 1984), aff'd in part, rev'd in part on other grounds, 728 F.2d 471 (10th Cir. 1984).

1-4-803. Petitions for nominating school district directors.

(1) (a) Any person who desires to be a candidate for the office of school director in a school district in which fewer than one thousand students are enrolled shall file a nomination petition signed by at least twenty-five eligible electors from throughout the school district, regardless of the school district's plan of representation. Any person who desires to be a candidate for the

office of school director in a school district in which one thousand students or more are enrolled shall file a nomination petition signed by at least fifty eligible electors from throughout the school district, regardless of the school district's plan of representation. An eligible elector may sign as many petitions as candidates for whom that elector may vote.

(b) A person who desires to be a candidate for the office of school director may not circulate the nomination petition for signatures prior to ninety days before the election.

(c) The petition may designate or appoint on its face one or more eligible electors as a committee to fill vacancies in the nomination.

(2) The nomination petition must be filed no later than sixty-seven days before the election date.

(3) If a school district has an at-large method of representation and if terms of different lengths are to be filled at a district election, candidates must designate on the nomination petition the term for which they are running.

(4) A candidate for the office of school director shall not run as a candidate of any political party for that school directorship.

(5) The candidate for the office of school director shall have been a registered elector of the school district, as shown on the books of the county clerk and recorder, for at least twelve consecutive months prior to the date of the election.

Source: L. 92: Entire part R&RE, p. 686, § 7, effective January 1, 1993. **L. 93:** (2) amended, p. 1406, § 30, effective July 1. **L. 94:** (1) amended, p. 1153, § 14, effective July 1. **L. 95:** (1) amended, p. 831, § 30, effective July 1. **L. 98:** (5) amended, p. 291, § 2, effective July 1. **L. 99:** (1) amended, p. 468, § 1, effective April 30; (2) amended, p. 765, § 26, effective May 20. **L. 2006:** (1) and (5) amended, p. 1024, § 6, effective May 25. **L. 2017:** (1)(c) added, (SB 17-209), ch. 234, p. 947, § 3, effective August 9.

1-4-804. Petitions for nominating nonpartisan special district directors. (Repealed)

Source: L. 92: Entire part R&RE, p. 687, § 7, effective January 1, 1993. **L. 93:** Entire section amended, p. 1406, § 31, effective July 1. **L. 94:** (1) amended and (3) added, p. 1153, § 15, effective July 1. **L. 96:** (4) added, p. 1740, § 22, effective July 1. **L. 99:** Entire section repealed, p. 450, § 5, effective August 4.

1-4-805. Petitions for nominating municipal candidates in coordinated elections.

Any person who desires to be a candidate for a municipal office in a coordinated election shall, in lieu of the requirements of this article, comply with the nominating petition procedure set forth in the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S.; except that part 11 of this article, concerning write-in candidate affidavits, shall apply in such municipal elections, and any nominating petition may be circulated and signed beginning on the ninety-first day prior to the election and shall be filed with the municipal clerk no later than the seventy-first day prior to the date of the election. The petition may be amended to correct or replace signatures that the clerk finds are not in apparent conformity with the requirements of the municipal election code at any time before the sixty-seventh day before the election.

Source: L. 93: Entire section added, p. 1406, § 32, effective July 1. **L. 95:** Entire section amended, p. 831, § 31, effective July 1. **L. 96:** Entire section amended, p. 1740, § 23, effective July 1. **L. 99:** Entire section amended, p. 765, § 27, effective May 20. **L. 2004:** Entire section amended, p. 1522, § 1, effective May 28.

1-4-806. Preregistrants eligible to sign petitions.

A preregistrant who is eligible to vote in a primary election under section 1-2-101 (2)(c) is eligible to sign a petition under this part 8 to nominate a candidate for the primary election or for the next general election.

Source: L. 2019: Entire section added, (HB 19-1278), ch. 326, p. 3013, § 20, effective August 2.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

PART 9

PETITIONS FOR CANDIDACY

Editor's note: Articles 1 to 13 were repealed and reenacted in 1980, and this part 9 was subsequently repealed and reenacted in 1992, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 9 prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement

volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the title heading. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated in 1992. For a detailed comparison of articles 1 to 13 for 1980 and of this part 9 for 1992, see the comparative tables located in the back of the index.

1-4-901. Designation of petition.

(1) The petition for a candidate may consist of one or more sheets, to be fastened together in the form of one petition section, but each sheet shall contain the same heading and each petition section shall contain one sworn affidavit of the circulator. Except for the joint candidates for president and vice president and the joint candidates for governor and lieutenant governor, no petition shall contain the name of more than one person for the same office.

(2) Repealed.

Source: L. 92: Entire part R&RE, p. 687, § 7, effective January 1, 1993. **L. 93:** (2) amended, p. 1406, § 33, effective July 1. **L. 95:** (2) amended, p. 831, § 32, effective July 1. **L. 96:** (2) repealed, p. 1740, § 24, effective July 1. **L. 2001:** (1) amended, p. 1002, § 4, effective August 8. **L. 2012:** (1) amended, (HB 12-1292), ch. 181, p. 681, § 14, effective May 17.

Editor's note: This section is similar to former § 1-4-603 (3) as it existed prior to 1992.

Cross references: For designation of candidates by assembly, see § 1-4-601; for designation of party candidates by petition, see § 1-4-603; for nomination of candidates by convention, see § 1-4-701.

ANNOTATION

I. General Consideration.

II. Apparent Conformity.

III. Proceedings Summary.

IV. Jurisdiction.

V. Review.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations are taken from cases decided under former provisions similar to this section.

Failure to pursue remedies under the objection provision does not constitute

waiver of the right of an elector to contest the eligibility of one to be a candidate of his political party. Ray v. Mickelson, 196 Colo. 325, 584 P.2d 1215 (1978).

II. APPARENT CONFORMITY.

The secretary of state, in the absence of objection, is not vested with authority to refuse to certify a nomination because he has some objection to it for some substantial reason. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

He may, on his own motion, refuse to file a certificate, based on some formal ground. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

But if it is "in apparent conformity" with the applicable provisions the secretary may not, of his own motion, and in the absence of some objection based upon matters of substance, refuse to certify the nomination. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

The law regards certificates of nomination as having been filed where the parties presenting them did all that was possible in complying with the designation and nomination provision even though the secretary of state refused to file the certificate. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

The objection provision does not contemplate that void certificates of nomination can be cured or amended so as to make them valid after the time for filing such certificates of nomination has expired. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

III. PROCEEDINGS SUMMARY.

The formalities which are required in ordinary civil actions need not be strictly observed in proceedings based on objections to designations and nominations. Phillips v. Curley, 28 Colo. 34, 62 P. 837 (1900).

IV. JURISDICTION.

The filing officers in the first instance and the courts upon review have jurisdiction to determine the regularity of party conventions and the claims of rival factions of the same political party to have their nominees placed on the official ballot. Leighton v. Bates, 24 Colo. 303, 50 P. 856, 50 P. 858 (1897); Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897); Whipple v. Owen, 24 Colo. 319, 50 P. 861 (1897); McCoach v. Whipple, 24 Colo. 379, 51 P. 164 (1897); Whipple v. Broad, 25 Colo. 407, 55 P. 172 (1898); Whipple v. Wheeler, 25 Colo. 421, 55 P. 188 (1898); Spencer v. Maloney, 28 Colo. 38, 62 P. 850 (1900).

The decision of the filing officer as to formal matters in a certificate of nomination is final. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

But his decisions of matters of substance are reviewable by lower courts. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

And when reviewed by a lower court in the manner prescribed, the decision of such lower court is final. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

Subject only to the power of the supreme court, in its discretion, to review summarily the judicial proceeding below.

Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

V. REVIEW.

A review is ordinarily had of record only, and as made by the lower tribunal. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

Yet the review may not be so limited. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

Because of accompanying or explanatory words, the review may be enlarged so as to embrace the taking of additional evidence, or practically to constitute a trial de novo. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

The review in the trial courts contemplated by the objection provision was such as the section on settlement of controversies provided. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

And it is clear that the provision for settlement of controversies contemplates the taking of evidence where the issues require it. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

The objection provision does not contemplate a review in supreme court of the same character as that provided for in county or district court. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

Review in the supreme court is to be upon the record as made in the lower court. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

Decision of trial court will not be disturbed except for strong and persuasive reasons. Since the decision of the trial court is final, that decision should not be disturbed except for strong and persuasive reasons. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

The supreme court should interfere if the trial court acts without jurisdiction, or in excess thereof, or acts arbitrarily, or grossly abuses its discretion. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

Supreme court may in its discretion accept or reject an appeal with respect to nominations of candidates, and if it elects to accept the appeal, it may proceed in a summary way to dispose of it. In re Weber, 186 Colo. 61, 525 P.2d 465 (1974).

The matter of review by the supreme court, in an action to compel a town clerk to accept and file certificate of nomination and to certify and have printed on the official ballot the names of certain candidates, is entirely discretionary with the court. Luedke v. Todd, 109 Colo. 326, 124 P.2d 932 (1942).

Objection to petition not raised before county clerk cannot be raised on review. In a proceeding to protest the placing of nominations upon the official ballot, an objection that the petition failed to show the authority of the petitioner to make the protest, if not raised before the county clerk, cannot be raised on review. Phillips v. Curley, 28 Colo. 34, 62 P. 837 (1900).

In order to invoke the appellate jurisdiction of the supreme court, in the exercise of its discretion to review the

proceedings of the lower court determining the validity of objections to certificates of nomination, a certified copy of the record and judgment of the trial court, or the material parts thereof, sufficient to present the questions relied upon, with a brief petition stating the nature of the controversy, the points at issue, and the errors relied upon, should be filed in the supreme court. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

A motion should then be made, based upon this petition, asking the court to exercise its appellate jurisdiction, specifying time and place of hearing of the application. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

And notice of the motion should be served upon the opposing party. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

In an action to compel a county clerk to receive and file nominations for county offices which was refused by him on the ground that no election for such offices could be held at the ensuing election, where in the absence of one of the judges of the supreme court the other two disagree as to whether the court should exercise its discretion to review the judgment of the lower court even if it has jurisdiction to do so, the proceeding must be dismissed and it is unnecessary to determine whether or not the court has jurisdiction to review the judgment of the lower court. Beach v. Berdel, 31 Colo. 505, 74 P. 1129 (1903).

District judge was interested in the result and disqualified to try cause. Where a list of nominations for county officers filed with the county clerk was protested on the ground that the party name assumed was an infringement on the name of another political party and tended to deceive the voters, a district judge who had been nominated under the same party name and the nomination filed with the secretary of state was interested in the result and disqualified to try the cause, although the judgment in the cause would not directly affect his own nomination, since it involved the determination of a question which if raised in the proper tribunal would determine the validity of his own nomination on the ticket. Phillips v. Curley, 28 Colo. 34, 62 P. 837 (1900).

1-4-902. Form of petition.

(1) The signatures to a petition need not all be appended to one paper, but no petition is legal that does not contain the requisite number of names of eligible electors whose names do not appear on any other petition previously filed for the same office under this section.

(2) At the top of each page shall be printed, in bold-faced type, the following:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign this petition with any name other than one's own or to knowingly sign one's name more than once for the same candidate or to knowingly sign the petition when not a registered elector.

Do not sign this petition unless you are an eligible elector. To be an eligible elector you must be registered to vote and eligible to vote in (name of political subdivision) elections.

Do not sign this petition unless you have read or have had read to you the proposed nomination petition in its entirety and understand its meaning.

(3) Directly following the warning in subsection (2) of this section shall be printed in bold-faced type the following:

Petition to nominate (name of person sought to be elected to) the office of (title of office).

Source: L. 92: Entire part R&RE, p. 687, § 7, effective January 1, 1993. **L. 93:** (3) amended, p. 1766, § 4, effective June 6. **L. 95:** (2) and (3) amended, p. 831, § 33, effective July 1. **L. 2014:** (1) amended, (SB 14-158), ch. 170, p. 622, § 12, effective May 9.

Editor's note: Subsection (1) is similar to former § 1-4-801 (1)(d) as it existed prior to 1992.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

ANNOTATION

Statement that no petition is legal that does not contain the requisite number of names requires strict compliance. The "substantial compliance" standard does not apply because the signature mandates are not mere technical requirements but rather minimum thresholds that the legislature has declared must be met. A candidate cannot be

certified to the ballot with fewer signatures than required. Griswold v. Ferrigno Warren, 2020 CO 34, 462 P.3d 1081.

1-4-903. Approval of petition.

No petition shall be circulated until it has been approved as meeting the requirements of this section as to form. The secretary of state or the official with whom the petitions are to be filed shall approve or disapprove a petition as to form by the close of the second business day following submission of the proposed petition. The secretary of state or official, as applicable, shall mail or email written notice of the action taken to the person who submitted the petition on the day the action is taken.

Source: L. 92: Entire part R&RE, p. 688, § 7, effective January 1, 1993. **L. 95:** Entire section amended, p. 832, § 34, effective July 1. **L. 96:** Entire section amended, p. 1740, § 25, effective July 1. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1641, § 19, effective June 21.

Cross references: For filing a certificate of designation, see § 1-4-604; for convention nominations, see § 1-4-701.

ANNOTATION

Annotator's note. The following annotations are taken from a case decided under a former provision similar to this section.

The "vacancy" section must be construed in the light of the two-pronged framework for the designation and nomination of candidates either by the party assembly or by petition. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

A vacancy comes into being when a party assembly fails to designate any candidate for nomination to a particular office. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

And such "vacancy" continues to exist until it is filled by the party central committee or the time for filing it expires by the term of the statute. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

The "vacancy" created by the party assembly's failure to designate a candidate for nomination may be filled by the subsequent action of the appropriate party central committee. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

This is true even though a candidate for party nomination has in the interim between the assembly and the action of the

central committee been placed on the primary ballot by petition. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

1-4-904. Signatures on the petitions.

(1) Every petition shall be signed only by eligible electors.

(2) (a) For petitions to nominate candidates from a major political party in a partisan election, each signer must be affiliated with the major political party named in the petition and shall state the following to the circulator: That the signer has been affiliated with the major political party named in the petition for at least twenty-two days as shown in the statewide voter registration system and that the signer has not signed any other petition for any other candidate for the same office.

(b) Petitions to nominate candidates from a minor political party or unaffiliated candidates in a partisan election may be signed by any eligible elector who has not signed any other petition for any other candidate for the same office.

(3) Unless physically unable, all electors shall sign their own signature and shall print their names, their respective residence addresses, including the street number and name, the city or town, and the date of signature. Each signature on a petition shall be made, to the extent possible, in black ink.

(4) Any person, except a circulator, may assist an elector who is physically unable to sign the petition in completing the information on the petition as required by law. On the petition, immediately following the name of the disabled elector, the person providing assistance shall sign, provide the person's address, and state that the assistance was given to the disabled elector.

Source: L. 92: Entire part R&RE, p. 688, § 7, effective January 1, 1993. **L. 93:** (1) amended, p. 34, effective July 1. **L. 99:** (2) amended, p. 765, § 28, effective May 20. **L. 2002:** (2) amended, p. 1626, § 3, effective June 7. **L. 2003:** (2) amended, p. 1311, § 8, effective April 22. **L. 2016:** (2)(a) amended, (SB 16-142), ch. 173, p. 577, § 32, effective May 18. **L. 2021:** (2)(a) and (4) amended, (SB 21-250), ch. 282, p. 1641, § 20, effective June 21. **L. 2026:** (3) amended, (HB 26-1113), ch. 267, p. 1495, § 23, effective June 1.

Editor's note: This section is similar to former § 1-4-603 (3) as it existed prior to 1992.

Cross references: For designation of candidates by assembly, see § 1-4-601; for designation of party candidates by petition, see § 1-4-603; for nomination of candidates by convention, see § 1-4-701.

1-4-905. Circulators - requirements - affidavits - notarization - training.

(1) A person shall not circulate a petition to nominate a candidate unless the person is a citizen of the United States and at least eighteen years of age.

(2) (a) Each petition section must have attached a signed, notarized, and dated affidavit executed by the person who circulated the petition section, which must include: The affiant's printed name, the address at which the affiant resides, including the street name and number, the city or town, the county, and the date of signature; a statement that the affiant has read and understands the laws governing the circulation of petitions; a statement that the affiant was a citizen of the United States and at least eighteen years of age at the time the section of the petition was circulated and signed by the listed electors; a statement that the affiant circulated the section of the petition; a statement that each signature on the petition section was affixed in the affiant's presence and is the signature of the person whose name it purports to be; a statement that to the best of the affiant's knowledge and belief each of the persons signing the petition section was, at the time of signing, an eligible elector; a statement that the affiant has not paid or will not in the future pay and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing the signer to sign the petition; a statement that the affiant understands that the affiant can be prosecuted for violating the law governing the circulation of petitions, including the requirement that the affiant truthfully completed the affidavit and that each signature thereon was affixed in the affiant's presence; and a statement that the affiant understands that failing to make himself or herself available to be deposed and to provide testimony in the event of a protest shall invalidate the petition section if it is challenged on the grounds of circulator fraud.

(b) (I) A notary public shall not notarize an affidavit required under subsection (2)(a) of this section unless:

(A) The circulator is in the physical presence of the notary public; and

(B) The circulator has dated the affidavit and fully and accurately completed all of the personal information on the affidavit required by subsection (2)(a) of this section.

(II) An affidavit that is notarized in violation of any provision of subsection (2)(b)(I) of this section is invalid.

(III) If the date signed by a circulator on an affidavit required under subsection (2)(a) of this section is different from the date signed by the notary public, the affidavit is invalid. If a notary

public notarizes an affidavit that has not been dated by the circulator, the notarization date does not cure the circulator's failure to date the affidavit and the affidavit is invalid.

(3) The designated election official shall not accept for filing any section of a petition which does not have attached to it the notarized affidavit required by this section. Any signature added to a section of a petition after the affidavit has been executed is invalid.

(4) (a) As part of any court proceeding or hearing conducted by the secretary of state or designated election official related to a protest of all or part of a petition section, the circulator of such petition section shall be required to make himself or herself available to be deposed and to testify in person, by telephone, or by any other means permitted under the Colorado rules of civil procedure. Except as set forth in subsection (4)(b) of this section, the petition section that is the subject of the protest shall be invalid if a circulator fails to comply with the requirement set forth in this subsection (4)(a) for any protest that includes an allegation of circulator fraud that is pled with particularity regarding:

(I) Forgery of an eligible elector's signature;

(II) Circulation of a petition section, in whole or part, by anyone other than the person who signs the affidavit attached to the petition section;

(III) Use of a false circulator name or address in the affidavit; or

(IV) Payment of money or other things of value to any person for the purpose of inducing the person to sign the petition.

(b) Upon the finding by a district court, the secretary of state, or the designated election official that the circulator of a petition section is unable to be deposed or to testify at trial or a hearing conducted by the secretary of state or designated election official because the circulator has died, become mentally incompetent, or become medically incapacitated and physically unable to testify by any means whatsoever, the provisions of subsection (4)(a) of this section do not apply to invalidate a petition section circulated by the circulator.

(5) A candidate or candidate committee shall maintain a list of the names and addresses of all circulators who circulated petition sections on behalf of the candidate, the notaries public who notarized petition sections on behalf of the candidate, and the petition section numbers that each circulator circulated and that each notary public notarized. A copy of the list shall be filed with the secretary of state or designated election official along with the petition. If a copy of the list is not filed, the secretary of state or designated election official shall prepare the list and charge the proponents a fee to cover the actual cost of the preparation. Once filed or prepared by the secretary of state or designated election official, the list is a public record for purposes of article 72 of title 24.

(6) (a) A circulator who is not to be paid for circulating a petition shall display an identification badge that includes the words "VOLUNTEER CIRCULATOR" in bold-faced type that is clearly legible.

(b) A circulator who is to be paid for circulating a petition shall display an identification badge that includes the words "PAID CIRCULATOR" in bold-faced type that is clearly legible and the name and telephone number of the individual employing the circulator.

(7) The secretary of state shall develop circulator training programs for paid and volunteer circulators and shall offer the training programs in the most cost-effective manner available. A candidate, committee, or petition entity shall inform paid and volunteer circulators of the availability of these training programs as one manner of complying with the requirement set forth in the circulator's affidavit that a circulator read and understand the laws pertaining to petition circulation.

Source: L. 92: Entire part R&RE, p. 689, § 7, effective January 1, 1993. **L. 98:** (1) amended, p. 634, § 7, effective May 6. **L. 2001:** (1) amended, p. 1002, § 5, effective August 8. **L. 2007:** (1) and (2) amended, p. 1971, § 9, effective August 3. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 577, § 33, effective May 18. **L. 2019:** (1) and (2) amended and (4), (5), (6), and (7) added, (HB 19-1278), ch. 326, p. 3013, § 21, effective August 2. **L. 2021:** (2)(b)(I) amended, (SB 21-250), ch. 282, p. 1641, § 21, effective June 21.

Editor's note: This section is similar to former § 1-4-603 (8) as it existed prior to 1992.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Annotator's note. The following annotations include cases decided under law in effect prior to the 2019 amendment.

The voter registration requirement of subsection (1) violates the first amendment of the U.S. Constitution and is therefore invalid. Goodall v. Griswold, 369 F. Supp. 3d 1144 (D. Colo. 2019).

The secretary of state is permanently enjoined and restrained from enforcing those portions of subsection (1) that require that petition circulators be registered voters and residents of the state. Goodall v. Griswold, 369 F. Supp. 3d 1144 (D. Colo. 2019).

The residency requirement is not narrowly tailored to protect the integrity of the petition process. Goodall v. Williams, 324 F. Supp. 3d 1184 (D. Colo. 2018).

1-4-905.5. Petition entities - requirements - violations - definitions.

(1) As used in this section:

(a) "Candidate" has the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution.

(b) "Candidate committee" has the same meaning as set forth in section 2 (3) of article XXVIII of the state constitution.

(c) "Petition entity" means any person or committee that directly or indirectly provides payment to a circulator to circulate a petition to nominate a candidate, to recall an elected officer in accordance with article 12 of this title 1, or to create a minor party in accordance with part 13 of this article 4.

(d) "Recall committee" means the committee of signers described in section 1-12-108 (2)(b).

(2) (a) It is unlawful for any petition entity to provide payment to a circulator to circulate a petition to nominate a candidate, to recall an elected officer, or to create a minor party without first obtaining a license from the secretary of state.

(b) (I) The secretary of state may deny a license if the secretary finds that the petition entity or any of its principals have been found, in a judicial or administrative proceeding, to have violated the petition laws of Colorado or any other state, that the petition entity or any of its principals have been convicted in Colorado or any other state of election fraud, any other election offense, or an offense with an element of fraud, or that the petition entity knowingly contracted with a petition entity or a principal of a petition entity that has been found, in a judicial or administrative proceeding, to have authorized or knowingly permitted any of the acts set forth in subsection (2)(c) of this section.

(II) The secretary of state shall deny a license if no current representative of the petition entity has completed the training related to potential fraudulent activities in petition circulation as established by the secretary of state in accordance with section 1-4-905 (7).

(c) The secretary of state shall revoke a petition entity's license if, at any time after receiving a license, the petition entity is determined to no longer be in compliance with the requirements set forth in subsection (2)(b) of this section or if the petition entity authorized or knowingly permitted:

(I) Forgery of a registered elector's signature;

(II) Circulation of a petition section, in whole or part, by anyone other than the circulator who signs the affidavit attached to the petition section;

(III) Use of a false circulator name or address in the affidavit;

(IV) Payment of money or other things of value to any person for the purpose of inducing the person to sign or withdraw his or her name from a petition; or

(V) A notary public's notarization of a circulator affidavit outside of the physical presence of the circulator or without the production of the required identification for notarization of a petition section.

(3) (a) Whenever the secretary of state believes that a violation of this section has occurred, the secretary of state may investigate the violation. The secretary of state may also investigate possible violations of this section upon a signed complaint from any person.

(b) If the secretary of state denies, revokes, suspends, or imposes a condition on a license, the applicant or licensee is entitled to timely notice and hearing in accordance with article 4 of title 24.

(c) If, after a hearing, the secretary of state finds that an unlicensed petition entity circulated a petition in violation of this section, the secretary of state shall fine the petition entity in an amount not to exceed one hundred dollars per circulator for each day that the individual or individuals circulated petition sections on behalf of the unlicensed petition entity.

(d) If, after a hearing, the secretary of state finds that a petition entity violated a provision of subsection (2)(c) of this section or contracted with a petition entity that violated a provision of subsection (2)(c) of this section, the secretary may fine the petition entity in an amount not to exceed five thousand dollars and shall revoke the entity's license for not less than one year or more than two years. Upon finding any subsequent violation of a provision of subsection (2)(c) of this section, the secretary may fine the petition entity in an amount not to exceed five thousand dollars and shall revoke the petition entity's license for not less than two years or more than three years. The secretary shall consider all circumstances surrounding the violations in fixing the length of the revocations.

(e) If, after a hearing, the secretary of state finds that a petition entity violated the requirements of subsection (5) of this section, the secretary shall fine the petition entity in an amount not to exceed five thousand dollars.

(f) A petition entity whose license has been revoked may apply for reinstatement to be effective upon expiration of the term of revocation.

(g) In determining whether to reinstate a license, the secretary of state may consider:

(I) The entity's ownership by, employment of, or contract with any person who served as a director, officer, owner, or principal of a petition entity whose license was revoked under this

section or section 1-40-135, the role of such individual in the facts underlying the prior license revocation, and the role of such individual in a petition entity's post-revocation activities; and

(II) Any other facts the entity chooses to present to the secretary, including but not limited to remedial steps, if any, that have been implemented to avoid future acts that would violate this article 4 or article 40 of this title 1.

(4) (a) The secretary of state shall issue a decision on any application for a new or reinstated license within ten business days after a petition entity files an application. The application must be on a form prescribed by the secretary and must include, at a minimum:

(I) The name of any candidate, candidate committee, or recall committee for which a petition will be circulated by circulators coordinated or paid by the petition entity;

(II) The current name, address, telephone number, and electronic-mail address of the petition entity; and

(III) The name and signature of the designated agent of the petition entity for the candidate, candidate committee, or recall committee.

(b) A petition entity shall notify the secretary of state within twenty days of any change in the information submitted pursuant to subsection (4)(a) of this section.

(c) The secretary of state shall charge a nonrefundable license fee for each application in accordance with section 24-21-104 (3).

(5) A petition entity shall ensure that a petition circulated by the entity is delivered to the candidate, candidate committee, or recall committee no later than three days before the deadline for the candidate to file the petition.

(6) The secretary of state may create a single application and license, and charge a single fee, for entities subject to this section and section 1-40-135.

Source: L. 2019: Entire section added, (HB 19-1278), ch. 326, p. 3015, § 22, effective August 2. **L. 2021:** (1)(c), (2)(a), (2)(b)(I), (3)(d), (4)(a)(I), (4)(a)(III), and (5) amended and (1)(d) added, (SB 21-250), ch. 282, p. 1642, § 22, effective June 21. **L. 2023:** (1)(c), (2)(a), (2)(b)(I), and (3)(d) amended, (SB 23-276), ch. 399, p. 2377, § 12, effective June 6.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-4-905.7. Expenditures related to petition circulation - report - penalty - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Expenditure" means a payment to a circulator.

(b) "False address" means a street address, post office box, city, state, or any other designation of place used in a circulator's affidavit that does not represent the circulator's correct address of permanent domicile at the time the circulator circulated petitions. "False address" does not include an address that merely omits the designation of "street", "avenue", "boulevard", or any comparable term but does include the omission of the apartment or unit number, where applicable, of the place of residence.

(c) "Report" means the report required to be filed pursuant to subsection (2) of this section.

(2) No later than ten days after the date that a candidate, recall, or minor party petition is filed with the secretary of state, the candidate or candidate committee, recall committee, or representatives of the minor party petition must submit to the secretary of state a report that states the dates of circulation by all circulators who were paid to circulate a section of the petition, the total hours for which each circulator was paid to circulate a section of the petition, the gross amount of wages paid for such hours, and any addresses used by circulators on their affidavits that the candidate or candidate committee, recall committee, or representatives of the minor party petition, or their agents, have determined, prior to petition filing, to be false addresses.

(3) (a) Within ten days after the date the report is filed, a registered elector may file a complaint alleging a violation of the requirements for the report set forth in subsection (2) of this section. The candidate or candidate committee, recall committee, or representatives of the minor party petition committee may cure the alleged violation by additionally filing a report or an addendum to the original report within ten days after the date the complaint is filed. If the violation is not cured, a hearing officer shall conduct a hearing on the complaint within fourteen days after the date of the additional filing or the deadline for the additional filing, whichever is sooner.

(b) (I) After a hearing is held, if the hearing officer determines that the candidate or candidate committee, recall committee, or representatives of the minor party petition intentionally violated the reporting requirements of this section, the candidate or candidate committee, recall committee, or representatives of the minor party petition shall be subject to a penalty that is equal to three times the amount of any expenditures that were omitted from or erroneously included in the report.

(II) If the hearing officer determines that the candidate or candidate committee, recall committee, or representatives of the minor party petition intentionally misstated a material fact in the report or omitted a material fact from the report, or if the candidate or candidate committee,

recall committee, or representatives of the minor party petition never filed a report, the registered elector who instituted the proceedings may commence a civil action to recover reasonable attorney fees and costs from the candidate or candidate committee, recall committee, or representatives of the minor party petition.

(c) Except as otherwise provided in this section, any procedures related to a complaint shall be governed by the "State Administrative Procedure Act", article 4 of title 24.

Source: L. 2024: Entire section added, (SB 24-210), ch. 468, p. 3244, § 11, effective January 1, 2025.

1-4-906. Candidate's acceptance.

Every nominating petition before it is filed shall have attached to it a notarized acceptance of the nomination of the candidate or notarized acceptances by both of the joint candidates. Each acceptance of nomination shall contain the full name of the candidate or joint candidate as the name will appear on the ballot and the candidate's full address.

Source: L. 92: Entire part R&RE, p. 690, § 7, effective January 1, 1993.

Editor's note: This section is similar to former § 1-4-603 (4) as it existed prior to 1992.

1-4-907. Filing of petition.

The petition, when executed and acknowledged as prescribed in this part 9, shall be filed as follows: With the secretary of state if it is for an office that is voted on by the electors of the entire state or of a congressional district or for the offices of members of the general assembly or district attorney or a district office of state concern; with the county clerk and recorder if it is for a county office; and with the designated election official if it is for a nonpartisan local election.

Source: L. 92: Entire part R&RE, p. 690, § 7, effective January 1, 1993. **L. 94:** Entire section amended, p. 1621, § 1, effective May 31. **L. 95:** Entire section amended, p. 832, § 35, effective July 1.

Editor's note: This section is similar to former § 1-4-801 (1)(h) as it existed prior to 1992.

1-4-908. Review of petition - signature verification - notification - cure - rules.

(1) Upon filing, the designated election official for the political subdivision shall review all petition information and verify the information against the registration records, and, where applicable, the county assessor's records. The secretary of state shall establish guidelines for verifying petition entries.

(1.5) (a) In any election conducted after January 1, 2018, for any petition that must be filed with the secretary of state in accordance with section 1-4-907, the secretary of state shall compare each signature on a candidate petition with the signature of the eligible elector stored in the statewide voter registration system. The secretary of state may use a signature verification device to compare the signatures.

(b) (I) If it is determined that the signature on the petition does not match the signature of the eligible elector stored in the statewide voter registration database, or if a signature verification device is unable to determine that the signatures match, a second review shall be made by an employee of the secretary of state's office or a designee trained in signature verification. If the employee or designee agrees that the signatures do not match, the secretary of state shall, within three days of completing review of the entire petition, notify the candidate of such deficiency.

(II) To cure a signature that failed the signature verification process described in subsection (1.5)(b)(I) of this section, a candidate must provide the secretary of state with a statement, signed by the elector whose signature failed the verification process, that states substantially that the elector signed the petition. The statement must be accompanied by a copy of the elector's identification, as defined in section 1-1-104 (19.5). The secretary of state shall prescribe the form for the statement. To cure the signature deficiency, the candidate must return the statement and a copy of the elector's identification to the secretary of state within five days of the date the secretary notifies the candidate of the signature deficiency.

(III) The secretary of state may promulgate rules, in accordance with article 4 of title 24, to implement this subsection (1.5).

(2) (Deleted by amendment, L. 95, p. 832, § 36, effective July 1, 1995.)

(2.5) If, while verifying a signer's information against the registration records in accordance with subsection (1) of this section, the designated election official finds that the signer provided his or her mailing address rather than his or her residence address as required under section 1-4-904 (3), the designated election official may accept the signature line as valid if the designated election official is able to locate the signer's record in the statewide voter registration database and determine that the signer was eligible to sign the petition.

(3) After review, the official shall notify the candidate of the number of valid signatures and whether the petition appears to be sufficient or insufficient. In the case of a petition for

nominating an unaffiliated candidate, the official shall provide notification of sufficiency or insufficiency to the candidate no later than ninety-six days before the general election. Upon determining that the petition is sufficient and after the time for protest has passed, the designated election official shall certify the candidate to the ballot, and, if the election is a coordinated election, so notify the coordinated election official.

(4) If a partisan candidate who submitted a candidate petition for review accesses the ballot by assembly before the designated election official declares the petition sufficient or insufficient, the candidate must immediately inform the designated election official. Upon receiving notification, the designated election official shall cease review and shall consider the petition to have never been submitted.

Source: L. 92: Entire part R&RE, p. 690, § 7, effective January 1, 1993. **L. 94:** (1) and (3) amended, p. 1154, § 16, effective July 1. **L. 95:** (2) and (3) amended, p. 832, § 36, effective July 1; (3) amended, p. 886, § 3, effective July 1. **L. 2011:** (3) amended, (SB 11-189), ch. 243, p. 1064, § 11, effective May 27. **L. 2012:** (3) amended, (HB 12-1292), ch. 181, p. 681, § 15, effective May 17. **L. 2017:** (1.5) added, (HB 17-1088), ch. 398, p. 2076, § 1, effective August 9. **L. 2019:** (2.5) and (4) added, (HB 19-1278), ch. 326, p. 3018, § 23, effective August 2. **L. 2024:** (1.5)(b)(I) and (1.5)(b)(II) amended, (SB 24-210), ch. 468, p. 3246, § 12, effective June 6.

Editor's note: (1) This section is similar to former § 1-4-603 (2) as it existed prior to 1992.

(2) Amendments to subsection (3) by House Bill 95-1022 and House Bill 95-1241 were harmonized.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Law reviews. For article, "Colorado Election Law Update", see 46 Colo. Law. 53 (Aug.-Sept. 2017).

1-4-909. Protest of designations and nominations.

(1) A petition or certificate of designation or nomination that has been verified and appears to be sufficient under this code shall be deemed valid unless a petition for a review of the validity of the petition pursuant to section 1-1-113 is filed with the district court within five days after the election official's statement of sufficiency is issued or, in the case of a certificate of designation, within five days after the certificate of designation is filed with the designated election official.

(1.5) If the election official determines that a petition is insufficient, the candidate named in the petition may petition the district court within five days for a review of the determination pursuant to section 1-1-113.

(1.7) (a) If a candidate submits a petition to the secretary of state at least fourteen days prior to the deadline to submit the petition and the secretary of state determines that the petition is insufficient, then the petition is insufficient unless the candidate files a protest in writing under oath in the office of the secretary of state within seven days after the secretary of state determined the petition was insufficient.

(b) In the protest, the candidate must identify with particularity the signature lines that the candidate believes the secretary of state should have accepted but that the secretary of state rejected. A candidate may not include in the protest signature lines that the secretary of state rejected solely for a signature discrepancy under section 1-4-908 (1.5) that the candidate did not cure.

(c) After a candidate files a protest, the secretary of state may convene a hearing, which must be held before the secretary of state or a designee of the secretary of state is appointed as the hearing officer. The secretary of state shall provide notice of the date and time of the hearing to the candidate by email or mail no later than five days prior to the hearing. The testimony in every hearing must be under oath. The hearing must be summary and not subject to delay.

(d) The candidate filing a protest has the burden of sustaining the protest by a preponderance of the evidence. In determining whether any signature line should be accepted or rejected, the secretary of state may consider whether the signature on the petition matches the signature of the eligible elector identified by the candidate and whether the signer otherwise substantially complied with the requirements of this section when signing the petition. The secretary of state shall decide the protest no later than seven days before the deadline to certify ballot content pursuant to section 1-5-203 (1) for candidates to be placed on the primary election ballot and no later than fourteen days before the deadline to certify ballot content pursuant to section 1-5-203 (1) for any other candidate in any other election.

(e) The decision upon matters of substance is open to review, if application is made within five days, in the manner provided in section 1-1-113, to the district court. The remedy in all cases must be summary, and the decision of any court having jurisdiction is final and not subject to

review by any other court; except that the supreme court, in the exercise of its discretion, may review any judicial proceeding as provided in section 1-1-113.

(2) This section does not apply to any nomination made at a primary election.

Source: L. 92: Entire part R&RE, p. 690, § 7, effective January 1, 1993. **L. 93:** (1) amended, p. 1407, § 35, effective July 1. **L. 95:** (1) amended, p. 833, § 37, effective July 1. **L. 2001:** (1) amended, p. 1002, § 6, effective August 8. **L. 2007:** (1) amended and (1.5) added, p. 1971, § 10, effective August 3. **L. 2023:** (1.7) added, (SB 23-276), ch. 399, p. 2378, § 13, effective June 6.

Editor's note: This section is similar to former § 1-4-901 as it existed prior to 1992.

Cross references: For designation of candidates by assembly, see § 1-4-601; for designation of party candidates by petition, see § 1-4-603; for nomination of candidates by convention, see § 1-4-701.

ANNOTATION

I. General Consideration.

II. Apparent Conformity.

III. Proceedings Summary.

IV. Jurisdiction.

V. Review.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Failure to pursue remedies under the objection provision does not constitute waiver of the right of an elector to contest the eligibility of one to be a candidate of his political party. Ray v. Mickelson, 196 Colo. 325, 584 P.2d 1215 (1978).

II. APPARENT CONFORMITY.

The secretary of state, in the absence of objection, is not vested with authority to refuse to certify a nomination because he has some objection to it for some substantive reason. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

He may, on his own motion, refuse to file a certificate, based on some formal ground. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

But if it is "in apparent conformity" with the applicable provisions the secretary may not, of his own motion, and in the absence of some objection based upon matters of substance, refuse to certify the nomination. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

The law regards certificates of nomination as having been filed where the parties presenting them did all that was possible in complying with the designation and nomination provision even though the secretary of state refused to file the certificate. Mills v. Newell, 30 Colo. 377, 70 P. 405 (1902).

The objection provision does not contemplate that void certificates of nomination can be cured or amended so as to make them valid after the time for filing such certificates of nomination has expired. O'Connor v. Smithers, 45 Colo. 23, 99 P. 46 (1908).

III. PROCEEDINGS SUMMARY.

The formalities which are required in ordinary civil actions need not be strictly observed in proceedings based on objections to designations and nominations. Phillips v. Curley, 28 Colo. 34, 62 P. 837 (1900).

IV. JURISDICTION.

The filing officers in the first instance and the courts upon review have jurisdiction to determine the regularity of party conventions and the claims of rival factions of the same political party to have their nominees placed on the official ballot. Leighton v. Bates, 24 Colo. 303, 50 P. 856, 50 P. 858 (1897); Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897); Whipple v. Owen, 24 Colo. 319, 50 P. 861 (1897); McCoach v. Whipple, 24 Colo. 379, 51 P. 164 (1897); Whipple v. Broad, 25 Colo. 407, 55 P. 172 (1898); Whipple v. Wheeler, 25 Colo. 421, 55 P. 188 (1898); Spencer v. Maloney, 28 Colo. 38, 62 P. 850 (1900).

The decision of the filing officer as to formal matters in a certificate of nomination is final. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

But his decisions of matters of substance are reviewable by lower courts. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

And when reviewed by a lower court in the manner prescribed, the decision of such lower court is final. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

Subject only to the power of the supreme court, in its discretion, to review summarily the judicial proceeding below. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

V. REVIEW.

A review is ordinarily had of record only, and as made by the lower tribunal. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

Yet the review may not be so limited. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

Because of accompanying or explanatory words, the review may be enlarged so as to embrace the taking of additional evidence, or practically to constitute a trial de novo. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

The review in the trial courts contemplated by the objection provision was such as the section on settlement of controversies provided. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

And it is clear that the provision for settlement of controversies contemplates the taking of evidence where the issues require it. Leighton v. Bates, 24 Colo. 303, 50 P. 856 (1897).

The objection provision does not contemplate a review in supreme court of the same character as that provided for in county or district court. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

Review in the supreme court is to be upon the record as made in the lower court. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

Decision of trial court will not be disturbed except for strong and persuasive reasons. Since the decision of the trial court is final, that decision should not be disturbed except for strong and persuasive reasons. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

The supreme court should interfere if the trial court acts without jurisdiction, or in excess thereof, or acts arbitrarily, or grossly abuses its discretion. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

Supreme court may in its discretion accept or reject an appeal with respect to nominations of candidates, and if it elects to accept the appeal, it may proceed in a summary way to dispose of it. In re Weber, 186 Colo. 61, 525 P.2d 465 (1974).

The matter of review by the supreme court, in an action to compel a town clerk to accept and file certificate of nomination and to certify and have printed on the official ballot the names of certain candidates, is entirely discretionary with the court. Luedke v. Todd, 109 Colo. 326, 124 P.2d 932 (1942).

Objection to petition not raised before county clerk cannot be raised on review. In a proceeding to protest the placing of nominations upon the official ballot, an objection that the petition failed to show the authority of the petitioner to make the protest, if not raised before the county clerk, cannot be raised on review. Phillips v. Curley, 28 Colo. 34, 62 P. 837 (1900).

In order to invoke the appellate jurisdiction of the supreme court, in the exercise of its discretion to review the proceedings of the lower court determining the validity of objections to certificates of nomination, a certified copy of the record and judgment of the trial court, or the material parts thereof, sufficient to present the questions relied upon, with a brief petition stating the nature of the controversy, the points at issue, and the errors relied upon, should be filed in the supreme court. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

A motion should then be made, based upon this petition, asking the court to exercise its appellate jurisdiction, specifying time and place of hearing of the application. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

And notice of the motion should be served upon the opposing party. Liggett v. Bates, 24 Colo. 314, 50 P. 860 (1897).

In an action to compel a county clerk to receive and file nominations for county offices which was refused by him on the

ground that no election for such offices could be held at the ensuing election, where in the absence of one of the judges of the supreme court the other two disagree as to whether the court should exercise its discretion to review the judgment of the lower court even if it has jurisdiction to do so, the proceeding must be dismissed and it is unnecessary to determine whether or not the court has jurisdiction to review the judgment of the lower court. Beach v. Berdel, 31 Colo. 505, 74 P. 1129 (1903).

District judge was interested in the result and disqualified to try cause. Where a list of nominations for county officers filed with the county clerk was protested on the ground that the party name assumed was an infringement on the name of another political party and tended to deceive the voters, a district judge who had been nominated under the same party name and the nomination filed with the secretary of state was interested in the result and disqualified to try the cause, although the judgment in the cause would not directly affect his own nomination, since it involved the determination of a question which if raised in the proper tribunal would determine the validity of his own nomination on the ticket. Phillips v. Curley, 28 Colo. 34, 62 P. 837 (1900).

Subsection (1) affords a narrow opportunity to challenge the validity of a candidate's petition before the secretary of state certifies the candidate to the ballot, even if it appeared to be sufficient in a paper review. Kuhn v. Williams, 2018 CO 30M, 418 P.3d 478.

Petitioners properly availed themselves of that opportunity and challenged the residency of some of the petition circulators for the campaign of an incumbent U.S. representative. The district court improperly focused on circulator's stated future intent to move to this state rather than considering whether he presently has a primary or principal place of abode here to which he presently intended to return, as confirmed by objective indicia of such residency. The circulator was not a state resident when he acted as a circulator for the campaign. Kuhn v. Williams, 2018 CO 30M, 418 P.3d 478.

1-4-910. Protest to a recall petition. (Repealed)

Source: L. 92: Entire part R&RE, p. 691, § 7, effective January 1, 1993. **L. 94:** Entire section amended, p. 1154, § 17, effective July 1. **L. 95:** Entire section repealed, p. 833, § 38, effective July 1.

1-4-911. Review of a protest.

The party filing a protest has the burden of sustaining the protest by a preponderance of the evidence. The decision upon matters of substance is open to review, if prompt application is

made, as provided in section 1-1-113. The remedy in all cases shall be summary, and the decision of any court having jurisdiction shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any judicial proceeding in a summary way.

Source: L. 92: Entire part R&RE, p. 691, § 7, effective January 1, 1993.

Editor's note: This section is similar to former § 1-4-901 as it existed prior to 1992.

1-4-912. Cure - rules.

(1) Repealed.

(2) During the review of any candidate's petition that is required to be filed with the secretary of state's office, the secretary of state shall notify the candidate of any errors and insufficiencies regarding circulator affidavits. Upon the receipt of such a notification, the candidate has five calendar days from the date of receipt of the notice to cure the errors and insufficiencies described in the notice. To cure a circulator affidavit, the candidate must provide the secretary of state with a new circulator affidavit that corrects the errors of the previously submitted affidavit.

(3) The secretary of state shall promulgate rules, in accordance with article 4 of title 24, to implement this section, as amended.

Source: L. 92: Entire part R&RE, p. 691, § 7, effective January 1, 1993. **L. 93:** Entire section amended, p. 1407, § 36, effective July 1. **L. 94:** (1) amended, p. 1155, § 18, effective July 1. **L. 95:** (1) amended and (2) repealed, pp. 887, 861, 833, §§ 4, 117, 39, effective July 1. **L. 99:** (1) amended, p. 765, § 29, effective May 20. **L. 2005:** (1) amended, p. 1399, § 18, effective June 6; (1) amended, p. 1434, § 18, effective June 6. **L. 2011:** Entire section amended, (SB 11-189), ch. 243, p. 1065, § 12, effective May 27. **L. 2012:** Entire section amended, (HB 12-1292), ch. 181, p. 681, § 16, effective May 17. **L. 2017:** Entire section amended, (SB 17-209), ch. 234, p. 947, § 4, effective August 9; entire section amended, (HB 17-1088), ch. 398, p. 2077, § 2, effective August 9. **L. 2019:** (1) repealed and (2) amended, (HB 19-1278), ch. 326, p. 3018, § 24, effective August 2.

Editor's note: (1) This section is similar to former § 1-4-801 (1)(d) as it existed prior to 1992.

(2) Amendments to subsection (1) by House Bill 95-1022 and House Bill 95-1241 were harmonized.

(3) Amendments to this section by HB 17-1088 and SB 17-209 were harmonized.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Law reviews. For article, "Colorado Election Law Update", see 46 Colo. Law. 53 (Aug.-Sept. 2017).

1-4-913. Defacing of petitions. (Repealed)

Source: L. 92: Entire part R&RE, p. 692, § 7, effective January 1, 1993. **L. 95:** Entire section repealed, p. 834, § 40, effective July 1.

PART 10

WITHDRAWALS AND DISQUALIFICATIONS FROM, AND VACANCIES IN, NOMINATIONS AND DESIGNATIONS

Editor's note: Articles 1 to 13 were repealed and reenacted in 1980. This part 10 was repealed and reenacted in 1992 and was subsequently amended with relocations in 2017, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 10 prior to 2017, consult the 2016 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume. Former C.R.S. section numbers prior to 2017 are shown in editor's notes following those sections that were relocated. For a detailed comparison of articles 1 to 13 for 1980 and of this part 10 for 1992, see the comparative tables located in the back of the index.

1-4-1001. Withdrawal or disqualification from candidacy.

(1) (a) Any person who has accepted a designation or nomination may withdraw from candidacy at any time by filing a letter of withdrawal. The withdrawing candidate shall sign and acknowledge the letter before an officer authorized to take acknowledgments and shall file the letter with the designated election official with whom the original certificate or petition of candidacy was filed.

(b) Any candidate withdrawing from a designation or nomination shall forthwith report the withdrawal to the persons designated in this part 10 to fill the vacancy.

(c) Except in the case of a vacancy to be filled in accordance with the provisions of section 1-4-1004 or 1-4-1006 that apply when a vacancy occurs from the earliest day to mail ballots pursuant to section 1-7.5-107 and the day of a primary or general election, respectively, if the withdrawal of candidacy is not made in time for the candidate's name to be taken off the ballot, any votes cast for the candidate are invalid and shall not be counted.

(2) If the designated election official disqualifies a candidate before the ballots are printed, that candidate's name shall not appear on the ballots.

(3) If a party fails to fill a vacancy in nomination by the deadlines established in this part 10, that vacancy in nomination shall remain unfilled.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 947, § 5, effective August 9. **L. 2026:** (3) added, (HB 26-1113), ch. 267, p. 1495, § 24, effective June 1.

1-4-1002. Vacancies in major party designation up to the sixty-eighth day before primary election day.

(1) For the purposes of this section, a vacancy is caused by:

(a) The declination, death, disqualification, or withdrawal of the person designated by a party assembly as a candidate for nomination; or

(b) The failure of a party assembly to make designation of any candidate for nomination.

(c) Repealed.

(2) Any vacancy in a party designation occurring after the party assembly at which the designation was made and no later than sixty-eight days before the primary election may be filled by the party assembly vacancy committee of the district, county, or state, depending upon

the office for which the vacancy in designation has occurred. The party assembly vacancy committee must be appointed by the party in accordance with party rules.

(3) (a) No vacancy committee called to fill a vacancy pursuant to this section may select a person to fill the vacancy at a meeting held for that purpose unless a written notice announcing the time and location of the vacancy committee meeting was mailed to each of the committee members within ten calendar days from the date the vacancy occurs. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid. In addition to this mailing, the chairperson of the central committee may also contact the committee members by electronic mail.

(b) (I) No vacancy committee meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee.

(II) The vacancy committee, by a majority vote of its members present and voting at a meeting called for that purpose, shall select a person who meets all of the requirements of candidacy as of the date of the appointment and who is affiliated with the same political party:

(A) As shown in the statewide voter registration system as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy; or

(B) As the party assembly that failed to designate a candidate, as applicable.

(III) No member of the vacancy committee may vote by proxy.

(IV) If the vacancy committee fails to certify a selection within twenty calendar days from the date the vacancy occurs, or sixty-six days before the date of the primary election, whichever is sooner, the state chair of the party of the candidate whose declination, death, disqualification, or withdrawal caused the vacancy, within seven days, shall fill the vacancy by appointing a person who meets all of the requirements of candidacy as of the date of the appointment and who is affiliated with the same political party shown in the statewide voter registration system as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy. The name of the person appointed by the state chair must be certified to the secretary of state or the designated election official.

(c) (I) The designation and acceptance of the person selected to fill the vacancy must be submitted to the designated election official no later than three days from either the date of the vacancy committee meeting or from the date of appointment by the state chair pursuant to subsection (3)(b)(IV) of this section, as applicable; except that such certification must in all cases be submitted no later than the sixty-fourth day before the date of the primary election.

(II) For purposes of this section, a vacancy is filled when the designated election official receives the certificate of nomination and the written acceptance of the replacement candidate.

(d) If a person designated to fill a vacancy pursuant to this section decides not to fill a vacancy, he or she shall in like manner file a certificate setting forth the occurrence of the vacancy, stating that he or she does not intend to fill the vacancy.

(4) When a vacancy occurs and is filled pursuant to this section, the designated election official shall certify the name of the replacement candidate to the ballot.

(5) Notwithstanding any provisions to the contrary, if a political party has established a rule regarding the length of affiliation required for a candidate, and a vacancy in that office occurs, then the party rule applies.

(6) Repealed.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 948, § 5, effective August 9. **L. 2020:** (1) amended and (6) added, (HB 20-1359), ch. 23, p. 86, § 7, effective March 16. **L. 2026:** (3)(a) and (3)(b)(IV) amended, (HB 26-1113), ch. 267, p. 1495, § 25, effective June 1.

Editor's note: (1) Former subsection (2.3)(a) was amended by Proposition 108 in 2016. Those amendments were superseded by the amendment of this part 10 in SB 17-209, effective August 9, 2017. For the amendments to subsection (2.3)(a) in Proposition 108 in effect from December 27, 2016, to August 9, 2017, see section 6 on p. 2824, Session Laws of Colorado 2017.

(2) Subsections (1)(c)(II) and (6)(b) provided for the repeal of subsections (1)(c) and (6), respectively, effective December 31, 2020. (See L. 2020, p. 86.)

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

The "vacancy" section must be construed in the light of the two-pronged framework for the designation and nomination of candidates either by the party assembly or by petition. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

A vacancy comes into being when a party assembly fails to designate any candidate for nomination to a particular office. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

And such "vacancy" continues to exist until it is filled by the party central committee or the time for filing it expires by the term of the statute. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

The "vacancy" created by the party assembly's failure to designate a candidate for nomination may be filled by the subsequent action of the appropriate party central committee. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

This is true even though a candidate for party nomination has in the interim between the assembly and the action of the central committee been placed on the primary ballot by petition. Anderson v. Mullaney, 166 Colo. 533, 444 P.2d 878 (1968).

8 Colo. Code Regs. 1505-1, § 10.7.5, of the secretary of state's rules regarding the treatment of votes cast for ineligible candidates conflicts with this section and is therefore void. Subsection (2.5)(a) of this section provides that, where a vacancy occurs less than eighteen days before an election due to a partisan candidate's disqualification, votes cast in that election for that disqualified candidate are to be counted and recorded. The rule contravenes subsection (2.5)(a) by directing that, where a designated election official has determined that a person appearing on the ballot is not qualified for office, any votes cast for that person are invalid and must not be counted. Because the rule conflicts with statute, it is therefore void. Hanlen v. Gessler, 2014 CO 24, 333 P.3d 41.

1-4-1003. Vacancies in major party designation occurring between the sixty-seventh day before a primary election and the earliest day to mail primary election ballots.

(1) (a) For the purposes of this section, a vacancy is caused by the declination, death, disqualification, or withdrawal of the person designated by the assembly as a candidate for nomination.

(b) Repealed.

(2) A vacancy in a party nomination occurring between the sixty-seventh day before a primary election and the earliest day to mail primary election ballots pursuant to section 1-7.5-107 may be filled by the respective party assembly vacancy committee of the appropriate district, county, or state. The party assembly vacancy committee must be appointed by the party in accordance with party rules.

(3) (a) No vacancy committee called to fill a vacancy pursuant to this section may select a person to fill a vacancy at a meeting held for that purpose unless a written notice announcing the time and location of the vacancy committee meeting was mailed to each of the committee members within ten calendar days from the date the vacancy occurs. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid. In addition to this mailing, the chairperson of the central committee may also contact the committee members by electronic mail.

(b) (I) No vacancy committee meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee.

(II) The vacancy committee, by a majority vote of its members present and voting at a meeting called for that purpose, shall select a person who meets all of the requirements of candidacy as of the date of the primary election and who is affiliated with the same political party or minor political party, if any, shown in the statewide voter registration database as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy.

(III) No member of the vacancy committee may vote by proxy.

(IV) If the vacancy committee fails to certify a selection within twenty calendar days from the date the vacancy occurs, the state chair of the party of the candidate whose declination, death, disqualification, or withdrawal caused the vacancy, within seven days, shall fill the vacancy by appointing a person who meets all of the requirements of candidacy as of the date of the appointment and who is affiliated with the same political party shown in the statewide voter registration system as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy. The name of the person appointed by the state chair must be certified to the secretary of state or the designated election official.

(c) (I) The designation and acceptance of the person selected to fill the vacancy must be submitted to the designated election official no later than three days from either the date of the vacancy committee meeting or from the date of appointment by the state chair pursuant to subsection (3)(b)(IV) of this section, as applicable; except that, the designation and acceptance must in all cases be submitted no later than the day before the date of the primary election.

(II) For purposes of this section, a vacancy is filled when the designated election official receives the certificate of nomination and the written acceptance of the replacement candidate.

(d) No person is eligible for appointment to fill a vacancy in a party designation unless that person meets all requirements of candidacy as of the date that the vacancy appointment is made.

(e) If a person designated to fill a vacancy pursuant to this section decides not to fill a vacancy, he or she shall in like manner file a certificate setting forth the occurrence of the vacancy, stating that he or she does not intend to fill the vacancy.

(4) (a) When a vacancy in a party designation is filled pursuant to this section prior to the ballots being printed, the designated election official shall cause the name of the replacement candidate to be printed on the ballot.

(b) When a vacancy in a party designation is filled pursuant to this section after the ballots are printed:

(I) The designated election official shall:

(A) Prominently post, on the designated election official's official website and in each voter service and polling center, a notice regarding the vacancy and the name of the replacement candidate; and

(B) Either cause to be printed and placed on the sample ballot delivered to the election judges and posted pursuant to section 1-5-413 a sticker of a different color than the sample ballot indicating the name of the replacement candidate or reprint the sample ballot with the name of the replacement candidate in a different color; and

(II) Votes cast for the candidate who vacated the designation must be counted as votes for the replacement candidate.

(5) Notwithstanding any provisions to the contrary, if a political party has established a rule regarding the length of affiliation required for a candidate, and a vacancy in that office occurs, then the party rule applies.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 954, § 5, effective August 9. **L. 2020:** (1) amended, (HB 20-1359), ch. 23, p. 87, § 8, effective March 16. **L. 2026:** (3)(a), (3)(b)(IV), and (3)(c)(I) amended, (HB 26-1113), ch. 267, p. 1496, § 26, effective June 1.

Editor's note: Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective December 31, 2020. (See L. 2020, p. 87.)

1-4-1004. Vacancies in major party designation occurring from the day after the earliest day to mail primary election ballots through primary election day.

(1) For the purposes of this section, a vacancy is caused by the declination, death, disqualification, or withdrawal of the person designated by the assembly as a candidate for nomination.

(2) A vacancy in a party designation occurring from the day after the earliest day to mail primary election ballots pursuant to section 1-7.5-107 through the day of the primary election may be filled by the respective party assembly vacancy committee of the district, county, or state, depending upon the office for which the vacancy in nomination has occurred. The party assembly vacancy committee must be appointed by the party in accordance with party rules.

(3) (a) No vacancy committee called to fill a vacancy pursuant to this section may select a person to fill a vacancy at a meeting held for that purpose unless a written notice announcing the time and location of the vacancy committee meeting was mailed to each of the committee

members within ten calendar days from the date the vacancy occurs. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid. In addition to the mailing, the chairperson of the central committee may also contact committee members by electronic mail.

(b) (I) No vacancy committee meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee.

(II) The vacancy committee, by a majority vote of its members present and voting at a meeting called for that purpose, shall select a person who meets all of the requirements of candidacy as of the date of the primary election and who is affiliated with the same political party or minor political party, if any, shown in the statewide voter registration database as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy.

(III) No member of the vacancy committee may vote by proxy.

(IV) If the vacancy committee fails to certify a selection within twenty calendar days from the date the vacancy occurs, or five days from the date of the primary election, whichever is sooner, the state chair of the party of the candidate whose declination, death, disqualification, or withdrawal caused the vacancy, within seven days, shall fill the vacancy by appointing a person who meets all of the requirements of candidacy as of the date of the appointment and who is affiliated with the same political party shown in the statewide voter registration system as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy. The name of the person appointed by the state chair must be certified to the secretary of state or the designated election official.

(c) (I) The designation and acceptance of the person selected to fill the vacancy must be submitted to the designated election official no later than three days from either the date of the vacancy committee meeting or from the date of appointment by the state chair pursuant to subsection (3)(b)(IV) of this section, as applicable; except that, the designation and acceptance must in all cases be submitted no later than seven days from the date of the primary election.

(II) For purposes of this section, a vacancy is filled when the designated election official receives the certificate of nomination and the written acceptance of the replacement candidate.

(d) No person is eligible for appointment to fill a vacancy in a party designation unless that person meets all requirements of candidacy as of the date that the vacancy appointment is made.

(e) If a person designated to fill a vacancy pursuant to this section decides not to fill a vacancy, he or she shall in like manner file a certificate setting forth the occurrence of the vacancy, stating they do not intend to fill the vacancy.

(4) When a vacancy in a party nomination is filled pursuant to this section:

(a) The designated election official shall:

(I) Prominently post, on the designated election official's official website and in each voter service and polling center, a notice regarding the vacancy and the name of the replacement candidate; and

(II) Either cause to be printed and placed on the sample ballot delivered to the election judges and posted pursuant to section 1-5-413 a sticker of a different color than the sample ballot indicating the name of the replacement candidate or reprint the sample ballot with the name of the replacement candidate in a different color; and

(b) Votes cast for the candidate who vacated the designation must be counted as votes for the replacement candidate if a replacement candidate has been certified to the secretary of state or the designated election official on or before the date of the primary election.

(5) Notwithstanding any provisions to the contrary, if a political party has established a rule regarding the length of affiliation required for a candidate, and a vacancy in that office occurs, then the party rule applies.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 956, § 5, effective August 9. **L. 2026:** (3)(a), (3)(b)(IV), (3)(c)(I), and (4)(b) amended, (HB 26-1113), ch. 267, p. 1496, § 27, effective June 1.

1-4-1005. Vacancies in major party nomination occurring from the day after primary election day through the earliest day to mail general election ballots.

(1) For the purposes of this section, a vacancy is caused by the declination, death, disqualification, or withdrawal of the person nominated at the primary election.

(2) A vacancy in a party nomination occurring from the day after the primary election through the earliest day to mail general election ballots may be filled by the respective party assembly vacancy committee of the district, county, or state, depending upon the office for which the vacancy in nomination has occurred. The party assembly vacancy committee must be appointed by the party in accordance with party rules.

(3) (a) No vacancy committee called to fill a vacancy pursuant to this section may select a person to fill a vacancy at a meeting held for that purpose unless a written notice announcing the time and location of the vacancy committee meeting was mailed to each of the committee members within ten calendar days from the date the vacancy occurs. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid. In addition to the mailing, the chairperson of the central committee may also contact committee members by electronic mail.

(b) (I) No vacancy committee meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee.

(II) The vacancy committee, by a majority vote of its members present and voting at a meeting called for that purpose, shall select a person who meets all of the requirements of candidacy as of the date of the primary election and who is affiliated with the same political party or minor political party, if any, shown in the statewide voter registration database as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy.

(III) No member of the vacancy committee may vote by proxy.

(IV) If the vacancy committee fails to certify a selection within twenty calendar days from the date the vacancy occurs, the state chair of the party of the candidate whose declination, death, disqualification, or withdrawal caused the vacancy, within seven days, shall fill the vacancy by appointing a person who meets all of the requirements of candidacy as of the date of the appointment and who is affiliated with the same political party shown in the statewide voter registration system as the candidate whose declination, death, disqualification, or withdrawal caused the vacancy. The name of the person appointed by the state chair must be certified to the secretary of state or the designated election official.

(c) (I) The designation and acceptance of the person selected to fill the vacancy must be submitted to the designated election official no later than three days from either the date of the vacancy committee meeting or from the date of appointment by the state chair pursuant to subsection (3)(b)(IV) of this section, as applicable; except that such designation and acceptance must in all cases be submitted no later than the day before the date of the general election.

(II) For purposes of this section, a vacancy is filled when the designated election official receives the certificate of nomination and the written acceptance of the replacement candidate.

(d) No person is eligible for appointment to fill a vacancy in a party designation unless that person meets all requirements of candidacy as of the date that the vacancy appointment is made.

(e) If a person designated to fill a vacancy pursuant to this section decides not to fill a vacancy, he or she shall in like manner file a certificate setting forth the occurrence of the vacancy, stating they do not intend to fill the vacancy.

(4) (a) When a vacancy in a party nomination is filled pursuant to this section prior to the ballots being printed, the designated election official shall cause the name of the replacement candidate to be printed on the ballot.

(b) When a vacancy in a party nomination is filled pursuant to this section subsequent to the ballots being printed:

(I) The designated election official shall:

(A) Prominently post, on the designated election official's official website and in each voter service and polling center, a notice regarding the vacancy and the name of the replacement candidate; and

(B) Either cause to be printed and placed on the sample ballot delivered to the election judges and posted pursuant to section 1-5-413 a sticker of a different color than the sample ballot indicating the name of the replacement candidate or reprint the sample ballot with the name of the replacement candidate in a different color; and

(II) Votes cast for the candidate who vacated the nomination must be counted as votes for the replacement candidate.

(5) Notwithstanding any provisions to the contrary, if a political party has established a rule regarding the length of affiliation required for a candidate and a vacancy in that office occurs, then the party rule applies.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 957, § 5, effective August 9. **L. 2019:** (3)(c)(I) amended, (HB 19-1278), ch. 326, p. 3019, § 25, effective August 2. **L. 2026:** (3)(a), (3)(b)(IV), and (3)(c)(I) amended, (HB 26-1113), ch. 267, p. 1497, § 28, effective June 1.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-4-1006. Vacancies in major party nomination occurring from the day after the earliest day to mail general election ballots through general election day.

(1) For the purposes of this section, a vacancy is caused by the declination, death, disqualification, or withdrawal of the person nominated at the primary election.

(2) A vacancy occurring from the day after the earliest day to mail general election ballots through general election day must remain unfilled. If the candidate receiving the most votes in the election is the candidate whose withdrawal or disqualification created the vacancy, the vacancy in office must be filled in accordance with part 2 of article 12 of this code.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 959, § 5, effective August 9. **L. 2026:** (2) amended, (HB 26-1113), ch. 267, p. 1498, § 29, effective June 1.

1-4-1007. Vacancies in minor party designation or nomination.

Any vacancy in a nomination for a minor political party candidate occurring after the filing of the certificate of designation pursuant to section 1-4-1304 (3) and no later than seventy days before the general or congressional vacancy election, which is caused by the declination, death, disqualification, or withdrawal of any person nominated by the minor political party, may be filled by the person or persons designated in the constitution or bylaws of the minor political party to fill vacancies. The designation and acceptance of the person selected to fill the vacancy must be submitted to the designated election official no later than the sixty-fourth day before the date of the general election.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 960, § 5, effective August 9. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1498, § 30, effective June 1.

Editor's note: This section is similar to former § 1-4-1002 (4.5) as it existed prior to 2017.

1-4-1008. Vacancies in unaffiliated designation or nomination.

Any vacancy in a nomination for an unaffiliated candidate caused by the declination, death, disqualification, or withdrawal of any person nominated by petition or statement of intent occurring after the filing of the petition for nomination and no later than seventy days before the general or congressional vacancy election may be filled by the person or persons designated on the petition or statement of intent to fill vacancies. The designation and acceptance of the person selected to fill the vacancy must be submitted to the designated election official no later than the sixty-fourth day before the date of the general election.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 960, § 5, effective August 9. **L. 2022:** Entire section amended, (SB 22-212), ch. 421, p. 2963, § 2, effective August 10. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1498, § 31, effective June 1.

Editor's note: This section is similar to former § 1-4-1002 (4) as it existed prior to 2017.

1-4-1009. Vacancies in school district director nomination.

(1) A vacancy in nomination for a school district director candidate caused by the declination, death, disqualification, or withdrawal of any person nominated by petition occurring after the filing of the petition for nomination may be filled by the person or persons designated or appointed on the petition within five days of the person or persons learning of the vacancy.

(2) (a) When a vacancy is filled in accordance with this section before the ballots are printed, the coordinated election official shall cause the name of the replacement candidate to be printed on the ballot.

(b) When a vacancy is filled in accordance with this section after the ballots are printed:

(I) The coordinated election official shall:

(A) Prominently post, on the coordinated election official's official website and in each voter service and polling center, a notice regarding the vacancy and the name of the replacement candidate; and

(B) Either cause to be printed and placed on the sample ballot delivered to the election judges and posted in accordance with section 1-5-413 a sticker of a different color than the sample ballot indicating the name of the replacement candidate or reprint the sample ballot with the name of the replacement candidate in a different color; and

(II) Votes cast for the candidate who vacated the nomination must be counted as votes for the replacement candidate.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 960, § 5, effective August 9.

1-4-1010. Vacancies in office occurring from the sixty-eighth day prior to primary election day through the earliest day to mail general election ballots.

(1) Except as otherwise provided in subsection (2) of this section or section 1-4-1010 (2), any vacancy in a statewide or county office, in the office of district attorney, or in the office of a state senator occurring during a term of office and falling within the time periods governed by section 1-4-1002, 1-4-1003, 1-4-1004, or 1-4-1005 shall be filled at the next general election with nomination or designation by the political party as follows:

(a) (I) If the vacancy occurs before the political party assembly, the designated election official shall notify the chairperson of each major political party that the office will be on the ballot for the next primary election, and candidates for the office shall be designated as provided in section 1-4-601 or 1-4-603.

(II) No person is eligible for appointment to fill a vacancy in a party designation unless that person meets all requirements of candidacy as of the date that the vacancy appointment is made.

(b) (I) If the vacancy occurs after the political party assembly and no later than sixty-eight days before the primary election, the designated election official shall add the office to the notice of election and notify the chairperson of each major political party that the office will be on the ballot for the next primary election. Candidates for the office shall be designated as provided in section 1-4-603 or by the respective party central committee vacancy committee for the state, county, judicial district, or state senate district.

(II) No person is eligible for appointment to fill a vacancy in a party designation unless that person meets all requirements of candidacy as of the date that the vacancy appointment is made.

(c) If the vacancy occurs during the sixty-seven days before the primary election, or after the primary election and no later than sixty-eight days before the general election, the designated election official shall add the office to the notice of election for the general election and notify the chairperson of each major political party that the office will be on the ballot for the next general election. Nominations for the office shall be made by the respective party central committee vacancy committee for the state, county, judicial district, or state senate district or as provided in section 1-4-802 for the nomination of unaffiliated candidates.

(d) If the vacancy occurs sixty-eight days or fewer before a general election, that office must be filled at the next general election.

(2) Any vacancy in a statewide or county office, in the office of district attorney, or in the office of a state senator occurring during a term of office shall be filled at the next general election with nomination or designation by a minor political party pursuant to the constitution or bylaws of the minor political party.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 960, § 5, effective August 9.

Editor's note: Subection (1) is similar to former § 1-4-1002 (7) as it existed prior to 2017. Subsection (2) is similar to former § 1-4-1002 (7.5) as it existed prior to 2017.

1-4-1011. Vacancies of joint gubernatorial candidates - process for filling vacancy in nomination for office of lieutenant governor.

(1) For the purposes of this part 10, no vacancy in designation or nomination for the office of governor or the office of lieutenant governor in any way affects the candidacy of the other joint candidate.

(2) Any vacancy in a nomination for the office of lieutenant governor must be filled by appointment by the vacating candidate's joint candidate for governor.

(3) For the purposes of this section, a vacancy is caused by the declination, death, disqualification, or withdrawal of the candidate designated or nominated for governor or lieutenant governor.

Source: L. 2017: Entire part amended with relocated provisions, (SB 17-209), ch. 234, p. 961, § 5, effective August 9.

Editor's note: Subsection (1) is similar to former § 1-4-1003 as it existed prior to 2017. Subsection (2) is similar to former § 1-4-1002 (7.3) as it existed prior to 2017.

1-4-1012. Remote participation in vacancy committee meetings.

(1) Notwithstanding any provision to the contrary, a member of a vacancy committee filling a vacancy pursuant to this part 10 may participate in a vacancy committee meeting remotely, including casting the member's vote by email, mail, telephone, or through an internet-based application if allowed by the party's rules.

(2) Repealed.

Source: L. 2021: Entire section added, (HB 21-1001), ch. 1, p. 2, § 2, effective January 20; (2) repealed, (SB 21-250), ch. 282, p. 1643, § 24, effective June 21.

PART 11

WRITE-IN CANDIDATES

Editor's note: Articles 1 to 13 were repealed and reenacted in 1980, and this part 11 was subsequently repealed and reenacted in 1992, resulting in the addition, relocation, and

elimination of sections as well as subject matter. For amendments to this part 11 prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the title heading. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated in 1992. For a detailed comparison of articles 1 to 13 for 1980 and of this part 11 for 1992, see the comparative tables located in the back of the index.

1-4-1101. Write-in candidate affidavit of intent.

(1) A person who wishes to be a write-in candidate for an office in an election shall file an affidavit of intent stating that he or she desires the office and is qualified to assume its duties if elected. A write-in candidate for governor shall designate in the affidavit a write-in candidate for lieutenant governor. A write-in candidate for president of the United States in the general election shall designate in the affidavit a write-in candidate for vice president of the United States and shall include a list of presidential electors endorsed by the electors. The affidavit shall be filed with the secretary of state if it is for a statewide office, a seat in congress, a seat in the general assembly, the office of district attorney, or any other district office of state concern. The affidavit shall be filed with the county clerk and recorder if it is for a county office and with the designated election official if it is for a local office.

(2) No write-in vote for an office in an election shall be counted unless the person for whom the vote was cast filed the affidavit of intent required by subsection (1) of this section within the time prescribed by section 1-4-1102. No write-in vote for a candidate for governor shall be counted unless the person designated as the write-in candidate for lieutenant governor pursuant to subsection (1) of this section also filed an affidavit of intent within the time prescribed by section 1-4-1102.

Source: L. 92: Entire part R&RE, p. 695, § 7, effective January 1, 1993. **L. 96:** (1) amended, p. 1741, § 27, effective July 1. **L. 2007:** Entire section amended, p. 1973, § 12, effective August 3. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1643, § 23, effective June 21.

Editor's note: This section is similar to former § 1-4-1001 as it existed prior to 1992.

ANNOTATION

This section and § 1-7-309 do not conflict. This section regulates the conduct of write-in candidates and prohibits the write-in candidate who fails to file an

affidavit of intent from accumulating votes whereas § 1-7-309 regulates the conduct of voters and rejects ballots showing more names than persons to be elected to an office. Moran v. Carlstrom, 775 P.2d 1176 (Colo. 1989) (decided under former law).

1-4-1102. Time of filing affidavit.

(1) Except as provided in subsection (2) of this section, the affidavit of intent shall be filed by the close of business on the sixty-seventh day before a primary election and by the close of business on the one hundred tenth day before any other election.

(2) In a nonpartisan election, the affidavit of intent shall be filed by the close of business on the sixty-fourth day before the election. If the election is to be coordinated by the county clerk and recorder, the designated election official shall forward a copy of the affidavit of intent to the coordinated election official.

Source: L. 92: Entire part R&RE, p. 696, § 7, effective January 1, 1993. **L. 94:** Entire section amended, p. 1768, § 25, effective January 1, 1995. **L. 95:** Entire section amended, p. 835, § 43, effective July 1. **L. 96:** Entire section amended, p. 1741, § 28, effective July 1. **L. 99:** (1) amended, p. 768, § 31, effective May 20. **L. 2005:** (1) amended, p. 1402, § 20, effective June 6; (1) amended, p. 1437, § 20, effective June 6. **L. 2011:** (1) amended, (SB 11-189), ch. 243, p. 1065, § 13, effective May 27.

Editor's note: This section is similar to former § 1-4-1001 as it existed prior to 1992.

1-4-1103. Write-in votes for governor, president.

(1) No write-in vote for governor in a general election will be counted unless it includes a write-in vote for lieutenant governor.

(2) No write-in vote for president in a general election will be counted unless it includes a write-in vote for vice-president.

Source: L. 92: Entire part R&RE, p. 696, § 7, effective January 1, 1993. **L. 95:** Entire section amended, p. 835, § 44, effective July 1. **L. 2007:** Entire section amended, p. 1974, § 13, effective August 3. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1607, § 11, effective May 29.

Editor's note: This section is similar to former § 1-4-1002 as it existed prior to 1992.

PART 12

PRESIDENTIAL PRIMARY ELECTIONS

Editor's note: (1) This part 12 was added by referendum as part 11 in 1990. It was repealed in 2003 and was subsequently recreated and reenacted in 2016, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this part 12 prior to 2003, consult the 2002 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) This part 12 was recreated and reenacted, with amendments, by initiative in 2016. The vote count on Proposition 107 at the general election held November 8, 2016, was as follows:

FOR: 1,701,599

AGAINST: 953,246

Cross references: For the declaration of the people of Colorado in Proposition 107, see section 1 on p. 2815, Session Laws of Colorado 2017.

Law reviews: For article, "Colorado Election Law Update", see 46 Colo. Law. 53 (Aug.-Sept. 2017).

1-4-1201. Declaration.

In recreating and reenacting this part 12, it is the intent of the People of the State of Colorado that the provisions of this part 12 conform to the requirements of federal law and national political party rules governing presidential primary elections, and that the Colorado General Assembly will, during the 2017 legislative session, adopt all necessary conforming amendments to ensure the proper operation of a presidential primary election in Colorado.

Source: Initiated 2016: Entire part RC&RE, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2816.

1-4-1202. Definitions.

As used in this part 12, unless the context otherwise requires:

(1) "Political party" means a major political party as defined in section 1-1-104 (22).

(2) "Presidential primary election" means a primary election conducted in a year in which a United States Presidential Election will be held to allocate delegates to national nominating conventions of the major political parties selected in accordance with section 1-4-701.

Source: Initiated 2016: Entire part RC&RE, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2816.

1-4-1203. Presidential primary elections - when - conduct.

(1) A presidential primary election shall be held on a Tuesday on a date designated by the governor. The date selected for the primary must be no earlier than the date the national rules of the major political parties provide for state delegations to the party's national convention to be allocated without penalty and not later than the third Tuesday in March in years in which a United States Presidential Election will be held. The governor shall, in consultation with the secretary of state, designate the date of the presidential primary election no later than the first day of September in the year before the presidential primary election will be held.

(2) (a) Except as provided for in subsection (5) of this section, each political party that has a qualified candidate entitled to participate in the presidential primary election pursuant to this section is entitled to participate in the Colorado presidential primary election. At the presidential primary election, an elector that is affiliated with a political party may vote only for a candidate of that political party.

(b) An unaffiliated eligible elector may vote in a political party's presidential primary election without affiliating with that party or may declare an affiliation with a political party to the election judges at the presidential primary election in accordance with section 1-7-201. Notwithstanding any other provision of law, no elector affiliated with a major or minor political party or political organization may change or withdraw his or her affiliation in order to vote in the presidential primary election of another political party unless the elector has changed or withdrawn such affiliation no later than the twenty-second day preceding the presidential primary election as provided in section 1-2-219 (1).

(3) Except as otherwise provided in this part 12, a presidential primary election must be conducted in the same manner as any other primary election to the extent statutory provisions governing other primary elections are applicable to this part 12. The election officers and county

clerk and recorders have the same powers and shall perform the same duties for presidential primary elections as they provide by law for other primary elections and general elections.

(4) (a) A ballot used in a presidential primary election must only contain the names of candidates for the office of the president of the United States of America. The ballot shall not be used for the purpose of presenting any other issue or question to the electorate unless expressly authorized by law; except that, a congressional vacancy election may be presented on the same ballot used in a presidential primary if the congressional vacancy election is held on the same day as the presidential primary pursuant to section 1-4-401.

(b) Each political party that is entitled to participate in the presidential primary election shall have a separate party ballot for use by electors affiliated with that political party.

(c) The county clerk and recorder shall send to all active electors in the county who have not declared an affiliation with a political party a ballot packet that contains the ballots of all the major political parties. In this ballot packet, the clerk shall also provide written instructions advising the elector of the manner in which the elector will be in compliance with the requirements of this code in selecting and casting the ballot of a major political party. An elector may cast the ballot of only one major political party. After selecting and casting a ballot of a single major political party, the elector shall return the ballot to the clerk. If an elector casts and returns to the clerk the ballot of more than one major political party, all such ballots returned will be rejected and will not be counted.

(d) The secretary of state may by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.

(5) If, at the close of business on the sixtieth day before a presidential primary election, every political party has no more than one candidate for president affiliated with the political party who is certified to the presidential primary ballot pursuant to section 1-4-1204 (1) or who has filed a write-in candidate statement of intent pursuant to section 1-4-1205, the secretary of state may cancel the presidential primary election for all political parties and declare the candidate for each political party the winner of the presidential primary election for that political party.

(6) The secretary of state may by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in presidential primary elections.

(7) Repealed.

Source: Initiated 2016: Entire part RC&RE, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2816. **L. 2017:** (1) and (4)(b) amended, (4)(c) and (4)(d) added, and (7) repealed, (SB 17-305), ch. 216, p. 842, § 3, effective August 9. **L. 2021:** (2)(b) and (5) amended, (SB 21-250), ch. 282, p. 1643, § 25, effective June 21. **L. 2023:**

(4)(c) amended, (SB 23-276), ch. 399, p. 2379, § 14, effective June 6. **L. 2026:** (4)(a) amended, (HB 26-1113), ch. 267, p. 1499, § 32, effective June 1.

1-4-1204. Names on ballots.

(1) Not later than sixty days before the presidential primary election, the secretary of state shall certify the names and party affiliations of the candidates to be placed on any presidential primary election ballots. The only candidates whose names shall be placed on ballots for the election shall be those candidates who:

(a) Repealed.

(b) Are seeking the nomination for president of a political party as a bona fide candidate for president of the United States pursuant to political party rules and are affiliated with a major political party that received at least twenty percent of the votes cast by eligible electors in Colorado at the last presidential election; and

(c) Have submitted to the secretary, not later than eighty-five days before the date of the presidential primary election, a notarized candidate's statement of intent together with either a nonrefundable filing fee of five hundred dollars or a petition signed by at least five thousand eligible electors affiliated with the candidate's political party who reside in the state. Candidate petitions must meet the requirements of parts 8 and 9 of this article 4, as applicable.

(1.5) No later than the sixty-fifth day before the presidential primary election, a person whose name has been qualified to be placed on the ballot may file with the secretary of state an affidavit stating that the person is not a candidate for the office of the president of the United States and requesting that the person's name not be included in the list of names certified by the secretary of state in accordance with subsection (1) of this section. The secretary of state shall not include in the list the name of a person who timely files an affidavit.

(2) The names of candidates appearing on any presidential primary ballot must be in an order determined by lot. The secretary of state shall determine the method of drawing lots.

(3) Except as otherwise prohibited by political party rules, the state chairperson of a political party may request the secretary to provide a place on the primary ballot for electors who have no presidential candidate preference to register a vote to send a noncommitted delegate to the political party's national convention. To be valid, this request must be received by the secretary of state no later than seventy days before the presidential primary election.

(4) Any challenge to the listing of any candidate on the presidential primary election ballot must be made in writing and filed with the district court in accordance with section 1-1-113 (1) no later than five days after the filing deadline for candidates. Any such challenge must provide notice in a summary manner of an alleged impropriety that gives rise to the complaint. No later

than five days after the challenge is filed, a hearing must be held at which time the district court shall hear the challenge and assess the validity of all alleged improprieties. The district court shall issue findings of fact and conclusions of law no later than forty-eight hours after the hearing. The party filing the challenge has the burden to sustain the challenge by a preponderance of the evidence. Any order entered by the district court may be reviewed in accordance with section 1-1-113 (3).

Source: Initiated 2016: Entire part RC&RE, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2818. **L. 2017:** (1)(c) and (4) amended, (SB 17-305), ch. 216, p. 843, § 4, effective August 9. **L. 2019:** (1)(a) repealed and (1.5) added, (HB 19-1278), ch. 326, p. 3019, § 26, effective August 2.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

The state has exercised its plenary appointment power to limit presidential ballot access to those candidates who are constitutionally qualified to hold the office of president through the Uniform Election Code of 1992 (the Code). This section is the state's vehicle for advancing its interests. When eligible electors challenge the secretary of state's listing on the presidential primary ballot of a candidate who is not constitutionally qualified to assume office, this section, as exercised through a proceeding under § 1-1-113, offers an exclusive remedy under the Code. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds, 601 U.S. 100 (2024).

"Qualified" in this section means, at a minimum, that a candidate is qualified under the U.S. Constitution to assume the duties of the office of president, as this section supplies the only textual basis in the Code for the secretary of state's authority to require a presidential primary candidate to attest to the candidate's qualifications for office in the candidate statement of intent. To read "qualified" not to encompass federal constitutional qualifications would undermine the purpose of the Code, which is to secure the purity of elections, while compromising the secretary of state's ability to advance that purpose. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds, 601 U.S. 100 (2024).

Limiting presidential primary ballot access to constitutionally qualified candidates does not interfere with the first amendment rights of the Colorado Republican State Central Committee's right to determine the Republican

nominees that will appear on the ballot. Under this section, the Colorado Republican State Central Committee has a right to decide the candidates with whom it affiliates and recognizes as bona fide, but a political party is not absolutely entitled to have its nominee appear on the ballot if the nominee has not complied with the state election law requirements. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds, 601 U.S. 100 (2024).

The Code allows state courts, through challenges brought under this section and § 1-1-113 to assess the constitutional qualifications of a candidate and to order the secretary of state to exclude from the ballot candidates who are not qualified. These provisions advance the state's legitimate interest in protecting the integrity and practical functioning of the political process by allowing the secretary of state to exclude from the ballot candidates who are constitutionally prohibited from assuming office. These provisions neither infringe on a political party's associational rights nor compromise the validity of a court's ruling on complex factual and legal issues. Rather, they provide a robust vehicle through which to protect the purity of state elections. Anderson v. Griswold, 2023 CO 63, 543 P.3d 283, rev'd on other grounds, 601 U.S. 100 (2024).

1-4-1205. Write-in candidate affidavit for presidential primary.

A write-in vote for any candidate on the presidential primary ballot shall not be counted unless the candidate for whom the write-in vote was cast has filed a notarized candidate's statement of intent to seek the office of president of the United States. Any such affidavit must be accompanied by a nonrefundable fee of five hundred dollars and must be filed with the secretary of state no later than the close of business on the sixty-seventh day before the presidential primary election.

Source: Initiated 2016: Entire part RC&RE, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2819.

1-4-1206. Presidential primary ballots - survey of returns.

Each county clerk and recorder shall survey all returns received from the presidential primary election in all county precincts in accordance with article 10 of this title 1. For counties that contain more than one United States congressional district, the returns must indicate the number of votes cast in each precinct for each candidate; except that, if the total number of votes cast and counted in any precinct is less than ten, the returns for all such precincts in the county must be reported together. For counties that contain only one United States congressional district, the returns may indicate the number of votes cast in the county for each candidate.

Source: Initiated 2016: Entire part RC&RE, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2819. **L. 2019:** Entire section amended, (HB 19-1278), ch. 326, p. 3019, § 27, effective August 2. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1643, § 26, effective June 21.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-4-1207. Election results - certification - pledging of delegates.

(1) The secretary shall compile the number of votes cast for each candidate named on the presidential primary election ballot and the votes cast to send a noncommitted delegate to the political party's national convention, if applicable, and shall calculate the percentage of votes received by each candidate as compared to the number of votes received by all candidates of the same political party.

(2) The secretary shall certify the results and percentages calculated pursuant to subsection (1) of this section to the state chairperson and the national committee of each political party which had at least one candidate on its presidential primary election ballot.

(3) Each political party shall use the results of the election to allocate national delegate votes in accordance with the party's state and national rules.

Source: Initiated 2016: Entire part RC&RE, Proposition 107, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2819. **L. 2019:** (2) and (3) amended, (HB 19-1278), ch. 326, p. 3020, § 28, effective August 2.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

PART 13

MINOR POLITICAL PARTIES

1-4-1301. Formation of minor political party.

(1) A minor political party shall adopt a constitution or set of bylaws to govern its organization and the conduct of its affairs and shall exercise thereunder any power not inconsistent with the laws of this state. The constitution or set of bylaws shall be filed with the secretary of state. Any minor political party failing to file its constitution or set of bylaws pursuant to this section shall not be qualified as a minor political party. The constitution or set of bylaws shall contain the following:

(a) A method of nominating candidates for the partisan offices specified in section 1-4-1304 (1);

(b) A method for calling and conducting assemblies and conventions;

(c) A method for selecting delegates to assemblies and conventions;

(d) A method for the selection of members and a chairperson to the state central committee and for the selection of other party officers;

(e) A method for filling vacancies in party offices;

(f) The powers and duties of party officers;

(g) The structure of the state and county party organizations, if any;

(h) A statement that any meeting to elect party officers, including delegates, and any assembly to nominate candidates, shall be held at a public place at the time specified by the party chairperson and that the time and place of such meeting shall be published once, no later than fifteen days before such meeting, in a newspaper of general circulation in each county wherein the members of the minor political party reside;

(i) A statement that the party chairperson or his or her designee shall be the person who shall communicate on behalf of the minor political party; and

(j) A method for amending the constitution or set of bylaws.

(2) The chairperson of the party shall file any amendments to the constitution or set of bylaws with the secretary of state no later than fifteen days after the amendments are adopted.

(3) The name of the minor political party shall contain no more than three words in addition to the word "party". The name of the minor political party shall not use, in whole or in part, the name of any existing political party.

Source: L. 98: Entire part added, p. 251, § 1, effective April 13. **L. 99:** (1)(h) and (2) amended, p. 769, § 34, effective May 20. **L. 2003:** (1)(b), (1)(c), and (1)(h) amended, p. 1311, § 9, effective April 22.

1-4-1302. Petition to qualify as a minor political party.

(1) A petition to qualify as a minor political party must be signed by at least ten thousand registered electors and shall be submitted to the secretary of state no later than the close of business on the second Friday in the January of the election year for which the minor political party seeks to qualify.

(2) The petition shall contain the name of the minor political party, and the heading of the petition shall state that the signers thereof desire that it be qualified as a minor political party.

(3) Each registered elector signing a petition pursuant to this section shall print the elector's name and address, including the street and number, if any. There must be attached to each petition an affidavit of a person who is a citizen of the United States and at least eighteen years of age who circulated the petition stating:

(a) The circulator's address;

(b) That the circulator is a citizen of the United States and at least eighteen years of age;

(c) That the circulator circulated the petition;

(d) That each signature on the petition was affixed in the circulator's presence and is the signature of the person whose name it purports to be; and

(e) That, to the best of the circulator's knowledge and belief, each of the persons signing the petition was a registered elector at the time of signing.

(4) (a) Upon filing, the secretary of state shall review all petition information and verify the information against the registration records. The secretary of state shall establish guidelines for verifying petition entries.

(b) No later than twenty-one days after receipt of the petition, the secretary of state shall notify the minor political party seeking to qualify of the number of valid signatures and whether the petition appears to be sufficient or insufficient.

(c) Repealed.

(d) Upon determining that the petition is sufficient:

(I) The secretary of state shall notify the minor political party and the clerk and recorder of each county that such party is qualified; and

(II) Eligible electors shall be able to register as affiliated with such minor political party.

Source: L. 98: Entire part added, p. 252, § 1, effective April 13. **L. 99:** (4)(b) and (4)(c) amended, p. 769, § 35, effective May 20. **L. 2003:** (1), (2), and (4)(d)(I) amended, p. 1311, § 10, effective April 22. **L. 2011:** (1) amended, (SB 11-189), ch. 243, p. 1065, § 14, effective May 27. **L. 2021:** (1) and (3) amended and (4)(c) repealed, (SB 21-250), ch. 282, p. 1644, § 27, effective June 21.

1-4-1303. Qualifications to nominate by constitution or bylaws.

(1) Subject to the provisions of subsection (2) of this section, a minor political party qualifies as a minor political party if the party satisfies the requirements of section 1-4-1302 or any one of the following conditions:

(a) Any of its candidates for any office voted on statewide in either of the last two preceding general elections received at least five percent of the total votes cast for such office.

(b) One thousand or more registered electors are affiliated with the minor political party prior to April 1 of the election year for which the minor political party seeks to nominate candidates.

(2) A minor political party shall continue to be qualified as a minor political party if:

(a) A candidate of the party for statewide office has received at least one percent of the total votes cast for any statewide office in either of the last two preceding general elections; or

(b) One thousand or more registered electors are affiliated with the minor political party prior to April 1 in either of the last two preceding general elections for which the party seeks to nominate candidates.

(3) (Deleted by amendment, L. 2003, p. 1312, § 11, effective April 22, 2003.)

Source: L. 98: Entire part added, p. 253, § 1, effective April 13. **L. 2003:** IP(1) and (3) amended, p. 1312, § 11, effective April 22. **L. 2019:** (1)(b) and (2)(b) amended, (HB 19-1278), ch. 326, p. 3020, § 29, effective August 2.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-4-1304. Nomination of candidates.

(1) A minor political party may nominate candidates in accordance with sections 1-4-302, 1-4-402 (1)(a), 1-4-502 (1), and 1-4-802 and this article.

(1.5) (a) A minor political party may nominate candidates for offices to be filled at a general election by petition in accordance with section 1-4-802.

(b) (I) A minor political party may nominate candidates for offices to be filled at a general election by assembly. An assembly shall be held no later than seventy-three days preceding the primary election.

(II) Each candidate receiving thirty percent or more of the votes of all duly accredited assembly delegates who are present and voting on that office shall be designated by the assembly and certified pursuant to subsection (3) of this section.

(c) If an assembly designates more than one candidate for an office, or if an assembly designates one or more candidates and one or more candidates qualifies by petition, the candidate of the minor political party for that office shall be nominated at a primary election held in accordance with this code. A minor political party may prohibit unaffiliated electors from voting in the party's primary election so long as the prohibition is in accordance with the party's constitution, bylaws, or other applicable rules. Any minor party choosing to prohibit unaffiliated electors from voting in its primary election must notify the secretary of state of the prohibition not less than seventy-five days prior to the primary election.

(d) If only one candidate is designated for an office by petition or assembly, that candidate shall be the candidate of the minor political party in the general election.

(e) Nothing in this section shall be construed to prevent any eligible elector associated with a political organization that does not qualify as a minor political party in an election from qualifying for the ballot by petition as an unaffiliated candidate under section 1-4-802.

(f) Repealed.

(2) Nominations by a minor political party, to be valid, must be made in accordance with the party's constitution or bylaws. No nomination under this section is valid for any general election unless the nominee:

(a) Is a registered elector;

(b) Was registered as affiliated with the minor political party that is making the nomination, as shown in the statewide voter registration system, no later than the first business day of the January immediately preceding the general election for which the person was nominated, unless otherwise provided in the constitution or bylaws of the minor political party; and

(c) Has not been registered as a member of a major political party at any time after the first business day of the January immediately preceding the general election for which the person was nominated, unless otherwise provided in the constitution or bylaws of the minor political party.

(3) Any minor political party nominating candidates in accordance with this part 13 shall file a certificate of designation with the designated election official no later than sixty-seven days before the primary election for which the candidate was designated. The certificate of designation must state the name of the office for which each person is a candidate and the candidate's name and address, the date on which the assembly was held at which the candidate was designated, must designate in not more than three words the name of the minor political party that the candidate represents, and must certify that the candidate is a member of the minor political party. The candidate's name may include one nickname, if the candidate regularly uses the nickname and the nickname does not include any part of a political party name. The candidate's affiliation as shown in the statewide voter registration system is prima facie evidence of party membership.

(4) Any person nominated in accordance with this part 13 shall file a written acceptance with the designated election official. The written acceptance must be received by the designated election official no later than four business days after the filing of the certificate of designation required under subsection (3) of this section. If an acceptance is not filed within the specified time, the candidate shall be deemed to have declined the nomination.

(5) Nothing in this part 13 shall be construed to allow a minor political party to nominate more than one candidate for any one office.

Source: L. 98: Entire part added, p. 254, § 1, effective April 13. **L. 99:** IP(2), (3), and (4) amended, p. 769, § 36, effective May 20; (3) amended, p. 161, § 12, effective August 4. **L. 2001:** (3) amended, p. 1002, § 7, effective August 8. **L. 2003:** (1) and (3) amended and (1.5) added, p. 1312, § 12, effective April 22. **L. 2007:** (2)(b) and (2)(c) amended, p. 1974, § 14, effective August 3. **L. 2010:** (2) amended, (HB 10-1271), ch. 324, p. 1503, § 6, effective May 27. **L. 2011:** (1.5)(b)(I) amended, (SB 11-189), ch. 243, p. 1065, § 15, effective May 27. **L. 2012:** (3) amended, (HB 12-1292), ch. 181, p. 681, § 18, effective May 17. **L. 2016:** IP(2), (2)(b), and (3) amended, (SB 16-142), ch. 173, p. 578, § 35, effective May 18. **Initiated 2016:** (1.5)(c) amended, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2825. **L. 2020:** (1.5)(b)(I) amended and (1.5)(f) added, (HB 20-1359), ch. 23, p. 87, § 10, effective March 16. **L. 2026:** (1.5)(b)(I), (3), and (4) amended, (HB 26-1113), ch. 267, p. 1499, § 33, effective June 1.

Editor's note: (1) Amendments to subsection (3) by Senate Bill 99-025 and House Bill 99-1152 were harmonized.

(2) This section was amended by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

(3) Subsection (1.5)(f)(II) provided for the repeal of subsection (1.5)(f), effective December 31, 2020. (See L. 2020, p. 87.)

Cross references: For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

ANNOTATION

Law reviews. For article, "Colorado Election Law Update", see 46 Colo. Law. 53 (Aug.-Sept. 2017).

1-4-1305. Disqualification of minor political party.

(1) In the event a minor political party ceases to qualify as such a party pursuant to section 1-4-1303 (2) and fails to subsequently qualify as such a party pursuant to section 1-4-1303, the secretary of state shall notify the chairperson of such party and the clerk and recorder of each county of such disqualification.

(2) Such notice of disqualification shall be provided by the secretary of state to the chairperson of the minor political party and to each clerk and recorder no later than July 1 of an election year in which a minor political party may qualify candidates for the ballot. No certificate of designation of candidates pursuant to section 1-4-1304 (3) shall be accepted by the secretary of state from the minor political party for the election for which such party has ceased to qualify.

(3) Upon notification of disqualification of a minor political party, each registered elector that is affiliated with such minor political party must be designated in the statewide voter registration system as "unaffiliated".

Source: L. 98: Entire part added, p. 255, § 1, effective April 13. **L. 2016:** (3) amended, (SB 16-142), ch. 173, p. 578, § 36, effective May 18.

PART 14

DISTRICT ATTORNEY TERM LIMIT BALLOT QUESTIONS

1-4-1401. Legislative declaration.

(1) The general assembly hereby finds, determines, affirms, and declares that:

(a) District attorneys are nonjudicial elected officials subject to the limitations on terms of office imposed by section 11 of article XVIII of the state constitution;

(b) Judicial districts are political subdivisions of the state with political control by a community other than the state as a whole, and district attorneys continue to exhibit a fundamental characteristic of representing the people of the judicial district in order to protect their health, safety, and welfare; and

(c) Judicial districts do not have a clearly identified governing body with the explicit authority to call and conduct elections.

(2) Therefore, it is the intent of the general assembly that this part 14 provide an explicit statutory mechanism for the referral of ballot questions that seek to lengthen, shorten, or eliminate the limitations on terms of office for district attorneys to the eligible electors of a judicial district pursuant to section 11 (2) of article XVIII of the state constitution.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1040, § 1, effective May 20.

1-4-1402. Applicability of part.

This part 14 shall apply to any ballot question that seeks to lengthen, shorten, or eliminate the limitations on terms of office for a district attorney pursuant to section 11 (2) of article XVIII of the state constitution. Elections in which such ballot questions appear on the ballot shall be conducted pursuant to the provisions of this code unless otherwise provided for in this part 14.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1041, § 1, effective May 20.

1-4-1403. Referral of question in single-county judicial districts.

For a judicial district whose territory is comprised entirely of one county, the board of county commissioners for that county shall be the governing body to refer any ballot question to the

eligible electors of the judicial district regarding the lengthening, shortening, or elimination of the limitation on terms of office for the district attorney of the judicial district.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1041, § 1, effective May 20.

1-4-1404. Referral of question in multiple-county judicial districts.

(1) For a judicial district whose territory is comprised of more than one county, the boards of county commissioners of each county situated within the judicial district shall be the governing bodies to refer any ballot question to the eligible electors of their respective counties regarding the lengthening, shortening, or elimination of the limitation on terms of office for the district attorney of the judicial district imposed by section 11 of article XVIII of the state constitution.

(2) Any such ballot question shall appear on the ballot in each county situated within the judicial district at the same election. The wording of the ballot question shall be substantially identical in each county situated within the judicial district and the alphabetical, numerical, or alphanumerical designation used to identify the measure shall be identical on each ballot that includes the measure.

(3) Notwithstanding any other provision of law, if such a measure is approved by the eligible electors of a county situated within the judicial district but was not referred to or approved by the eligible electors of each county situated within the judicial district at the same election or if the wording of the measure was not substantially identical in each county situated within the judicial district, such measure shall be deemed void.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1041, § 1, effective May 20.

1-4-1405. Coordinated or general election ballot.

(1) Any ballot question that seeks to lengthen, shorten, or eliminate the limitations on terms of office for a district attorney shall only be submitted to the voters of a judicial district at a coordinated or general election.

(2) Any such ballot question shall appear on the official ballot used in each county in a judicial district and shall be a separate question from any other ballot questions seeking to lengthen, shorten, or eliminate the limitations on terms of office for any other elected officials.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1041, § 1, effective May 20.

1-4-1406. County clerk and recorder designated election official - certification of results to secretary of state.

(1) In addition to his or her duties regarding the general survey of returns specified in article 10 of this title, the county clerk and recorder of any county referring a ballot question seeking to lengthen, shorten, or eliminate the limitations on terms of office for a district attorney shall:

(a) Act as the designated election official for the election in which the ballot question appears on the ballot; and

(b) No later than the eighteenth day after the election in which the ballot question appears on the ballot, certify the total number of votes cast for and against the ballot question and transmit the certification to the secretary of state.

(2) Upon receipt of the certifications transmitted pursuant to paragraph (b) of subsection (1) of this section, the secretary of state shall compile the results received from each county situated within the judicial district and determine whether the measure was approved by the eligible electors of the judicial district as a whole. The secretary shall certify the results in the manner provided by law.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1042, § 1, effective May 20.

1-4-1407. Initiative - petition.

(1) (a) Notwithstanding any other provision of law, the registered electors of a county may submit to the board of county commissioners of the county a proposed ballot question regarding lengthening, shortening, or eliminating the limitation on terms of office for the district attorney of the judicial district imposed by section 11 of article XVIII of the state constitution. The registered electors may commence the initiative process by filing written notice of the proposed ballot question with the county clerk and recorder and subsequently, within one hundred eighty days after approval of the petition pursuant to subsection (2) of this section but no less than one hundred forty days prior to the next scheduled coordinated or general election, by filing a petition signed by registered electors of the county in an amount equal to at least five percent of the total number of votes cast in the county for all candidates for the office of district attorney at the previous general election.

(b) Upon the receipt and verification of the initiative petition pursuant to this section, the board of county commissioners shall refer the proposed ballot question, in the form petitioned for, to the registered electors of the county at the next scheduled coordinated or general election, whichever occurs first.

(2) (a) Each initiative petition filed pursuant to subsection (1) of this section shall be printed in a form consistent with this subsection (2). No petition shall be printed or circulated unless the form and the first printer's proof of the petition section have first been submitted to the county clerk and recorder and approved by the county clerk and recorder. The county clerk and recorder shall approve or reject the form and the first printer's proof of the petition no later than five business days following the date on which the county clerk and recorder received such material. The county clerk and recorder shall assure that the petition section contains only those elements required by this section and contains no extraneous material.

(b) Each petition section shall designate by name and mailing address two persons who shall represent the proponents thereof on all matters affecting the initiative petition and to whom all notices or information concerning the petition shall be mailed.

(c) (I) At the top of each page of every initiative petition section, the following shall be printed, in a form as prescribed by the county clerk and recorder:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign any initiative petition with any name other than his or her own, or to knowingly sign his or her name more than once for the same measure, or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Do not sign this petition unless you have read or have had read to you the proposed initiative or the summary in its entirety and understand its meaning.

(II) A summary of the proposed ballot question that is the subject of an initiative petition shall be printed following the warning on each page of a petition section. The summary shall be true and impartial and shall not be an argument, or likely to create prejudice, either for or against the measure. The summary shall be prepared by the county clerk and recorder.

(III) The full text of the proposed ballot question that is the subject of an initiative petition shall be printed following the summary on the first page or pages of the petition section that precede the signature page. Notwithstanding the requirement of subparagraph (I) of this paragraph (c), if the text of the proposed ballot question requires more than one page of a petition

section, the warning and summary need not appear at the top of any page other than the initial text page.

(IV) The signature pages shall consist of the warning and the summary, followed by ruled lines numbered consecutively for registered electors' signatures. If a petition section contains multiple signature pages, all signature lines shall be numbered consecutively, from the first signature page through the last. The signature pages shall follow the page or pages on which the full text of the proposed ballot question that is the subject of the initiative petition is printed.

(3) (a) Following the signature pages of each petition section, there shall be attached a signed, notarized, and dated affidavit executed by the person who circulated the petition section, which shall include the following:

(I) The affiant's printed name, the address at which the affiant resides, including the affiant's street name and number, municipality, and county, and the date the affiant signed the affidavit;

(II) That the affiant has read and understands the laws governing the circulation of initiative petitions;

(III) That the affiant was eighteen years of age or older at the time the petition section was circulated and signed by the listed electors;

(IV) That the affiant circulated the petition section;

(V) That each signature thereon was affixed in the affiant's presence;

(VI) That each signature thereon is the signature of the person whose name it purports to be;

(VII) That, to the best of the affiant's knowledge and belief, each of the persons signing the initiative petition section was, at the time of signing, a registered elector; and

(VIII) That the affiant has not paid or will not in the future pay and that the affiant believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to the initiative petition.

(b) The county clerk and recorder shall not accept for filing any petition section that does not have attached thereto the notarized affidavit required by paragraph (a) of this subsection (3). Any disassembly of a petition section that has the effect of separating the affidavit from the signature page or pages shall render that petition section invalid and of no force and effect.

(c) Any signature added to a petition section after the affidavit has been executed shall be invalid.

(d) All petition sections shall be prenumbered serially.

(e) Any petition section that fails to conform to the requirements of this section or that is circulated in a manner other than that permitted by this section shall be invalid.

(4) The circulation of any petition section other than personally by a circulator is prohibited. No petition section shall be circulated by any person who is not eighteen years of age or older at the time the petition section is circulated.

(5) Any initiative petition shall be signed only by registered electors who are eligible to vote on the measure. Each registered elector shall sign his or her own signature and shall print his or her name, the address at which he or she resides, including the street number and name, the city or town, and the county, and the date of signing. Each registered elector signing a petition shall be encouraged by the circulator of the petition to sign the petition in ink. In the event a registered elector is physically unable to sign the petition or is illiterate and wishes to sign the petition, the elector shall sign and make his or her mark in the space so provided. Any person, but not a circulator, may assist the disabled or illiterate elector in completing the remaining information required by this section. The person providing assistance shall sign his or her name and address and shall state that such assistance was given to the signor.

(6) (a) The county clerk and recorder shall inspect timely filed initiative petitions and the attached affidavits, and may do so by examining the information on signature lines for patent defects, by comparing the information on signature lines against a list of registered electors of the county.

(b) After examining the initiative petition, the county clerk and recorder shall issue a statement as to whether a sufficient number of valid signatures has been submitted. A copy of the statement shall be mailed to the persons designated as representing the petition proponents pursuant to paragraph (b) of subsection (2) of this section.

(c) The statement of sufficiency or insufficiency shall be issued no later than thirty calendar days after the initiative petition has been filed. If the county clerk and recorder fails to issue a statement within thirty calendar days, the petition shall be deemed sufficient.

(7) (a) Within forty days after an initiative petition is filed, a protest in writing under oath may be filed in the office of the county clerk and recorder by any registered elector who resides in the county, setting forth specifically the grounds for such protest. The grounds for protest may include, but shall not be limited to, the failure of any portion of a petition or circulator affidavit to meet the requirements of this section. No signature may be challenged that is not identified in the protest by section and line number. The county clerk and recorder shall forthwith mail a copy of such protest to the persons designated as representing the petition proponents pursuant to paragraph (b) of subsection (2) of this section and to the protester, together with a notice fixing a time for hearing such protest that is not less than five or more than ten days after such notice is mailed.

(b) The county clerk and recorder shall furnish a requesting protester with a list of the registered electors in the county and shall charge a fee to cover the cost of furnishing the list.

(c) Every hearing shall be held before the county clerk and recorder with whom such protest is filed. The county clerk and recorder shall serve as hearing officer unless some other person is designated by the board of county commissioners as the hearing officer, and the testimony in every such hearing shall be under oath. The hearing officer shall have the power to issue subpoenas and compel the attendance of witnesses. The hearing shall be summary and not subject to delay and shall be concluded within sixty days after the petition is filed. No later than five days after the conclusion of the hearing, the hearing officer shall issue a written determination of whether the petition is sufficient or not sufficient. If the hearing officer determines that a petition is not sufficient, the officer shall identify those portions of the petition that are not sufficient and the reasons therefor. The result of the hearing shall be forthwith certified to the protester and to the persons designated as representing the petition proponents pursuant to paragraph (b) of subsection (2) of this section. The determination as to petition sufficiency may be reviewed by the district court for the county upon application of the protester, the persons designated as representing the petition proponents, or the county, but such review shall be had and determined forthwith.

(8) The general assembly finds the provisions of this section are a matter of statewide concern and shall apply to all counties, including home rule counties, and to the city and county of Denver and the city and county of Broomfield.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1042, § 1, effective May 20.

1-4-1408. Prior actions not affected.

District attorney term limit ballot questions approved by the voters of any judicial district prior to May 20, 2010, are not affected by the enactment of this part 14 and shall remain valid.

Source: L. 2010: Entire part added, (SB 10-070), ch. 238, p. 1046, § 1, effective May 20.

ARTICLE 5

Notice of and Preparation for Elections

PART 1
POLLING LOCATIONS

1-5-101. Establishing precincts and polling places for partisan elections.

1-5-101.5. Precinct numbering.

1-5-102. Establishing precincts and voter service and polling centers for nonpartisan elections.

1-5-102.5. Establishing polling places for coordinated elections. (Repealed)

1-5-102.7. Combining precincts and polling places - vote centers. (Repealed)

1-5-102.9. Voter service and polling centers - number required - services provided - drop-off locations - definition.

1-5-103. Changes in boundaries - partisan elections.

1-5-104. Changes in boundaries - nonpartisan elections.

1-5-105. Restrictions.

1-5-106. Polling location or drop-off location - designation by sign.

1-5-107. Polling places for disabled electors - repeal. (Repealed)

1-5-108. Election judges may change polling locations and drop-off locations.

PART 2
CALL AND NOTICE

1-5-201. Notice of presidential primary election. (Repealed)

1-5-201.5. Legislative declaration - purpose.

1-5-202. Notice of presidential primary and primary election by secretary of state and county clerk and recorder. (Repealed)

1-5-203. Certification of ballot.

1-5-204. Call for nominations for nonpartisan elections. (Repealed)

1-5-205. Published and posted notice of election - content.

1-5-206. Postcard notice - reimbursement of mailing cost - definition. (Repealed)

1-5-206.5. Ballot issue notice. (Repealed)

1-5-206.7. Failure to receive mailed notice.

1-5-207. Court-ordered elections.

1-5-208. Election may be canceled - when.

PART 3
REGISTRATION RECORDS

1-5-301. Registration record for partisan elections.

1-5-302. Computer lists may be used in lieu of original registration records.

1-5-303. Registration records for nonpartisan elections.

1-5-304. Lists of property owners.

PART 4
BALLOTS

1-5-401. Method of voting.

1-5-402. Primary election ballots.

1-5-403. Content of ballots for general and congressional vacancy elections.

1-5-404. Arrangement of names on ballots for partisan elections.

1-5-405. Arrangement of names on voting machines - testing of machines - repeal. (Repealed)

1-5-406. Content of ballots for nonpartisan elections.

1-5-407. Form of ballots.

1-5-408. Form of ballots - electronic voting. (Repealed)

1-5-409. Single cross mark for party slate not permitted.

1-5-410. Printing and distribution of ballots.

1-5-411. Substitute ballots.

1-5-412. Correction of errors.

1-5-413. Sample ballots.

PART 5
POLLING PLACE SUPPLIES AND EQUIPMENT

1-5-501. Sufficient voting booths, voting machines, or electronic voting equipment.

1-5-502. Ballot boxes for nonmachine voting.

1-5-503. Arrangement of voting equipment or voting booths and ballot boxes.

1-5-504. Instruction cards.

1-5-504.5. Items to be posted at polling locations.

1-5-505. Election expenses to be paid by county - repeal. (Repealed)

1-5-505.5. State reimbursement to counties for elections with state certified ballot content.

1-5-506. Election expenses in nonpartisan elections.

1-5-507. County clerk and recorder to give estimate.

PART 6
AUTHORIZATION AND USE OF VOTING MACHINES AND ELECTRONIC VOTING SYSTEMS

1-5-600.3. Definitions.

1-5-601. Use of voting systems.

1-5-601.5. Compliance with federal requirements.

1-5-602. Requirements for voting machines - repeal. (Repealed)

1-5-603. Adoption and payment for voting machines. (Repealed)

1-5-604. Experimental use - repeal. (Repealed)

1-5-605. Other laws apply - paper ballots permitted for absentee voting - repeal. (Repealed)

1-5-605.5. Custody of voting system.

1-5-605.7. Mechanical lever voting machines - prohibited.

1-5-606. Election officials and employees not to have interest in voting equipment or devices.

1-5-607. Elected officials not to handle voting equipment or devices.

1-5-608. Requirements - electronic voting systems - repeal. (Repealed)

1-5-608.2. Punch card voting systems - prohibited.

1-5-608.5. Electromechanical voting systems - testing by federally accredited labs - certification and approval of purchasing of electromechanical voting systems by secretary of state - conditions of use by secretary of state - testing.

1-5-609. Acquisition and use authorized - repeal. (Repealed)

1-5-610. Preparation for use - electromechanical voting.

1-5-611. Requirements - nonpunch card electronic voting systems.

1-5-612. Use of electronic and electromechanical voting systems.

1-5-613. Purchase and sale of voting equipment.

1-5-614. Certification of electronic and electromechanical voting systems - standards. (Repealed)

1-5-615. Electromechanical voting systems - requirements.

1-5-616. Electromechanical voting systems - standards - procedures.

1-5-617. Examination - testing - certification.

1-5-618. Modification of electronic and electromechanical voting systems - definition.

1-5-619. Temporary use of electronic and electromechanical voting systems.

1-5-620. Electronic or electromechanical voting system information - software. (Repealed)

1-5-621. Compliance - definitions.

1-5-622. Special rules applicable to 2007 retesting of voting systems - repeal. (Repealed)

1-5-623. Purchase of new electromechanical voting systems - approval of secretary of state - rules.

PART 7
ACCESSIBILITY FOR ELECTORS WITH DISABILITIES

1-5-701. Legislative declaration - federal funds.

1-5-702. Definitions.

1-5-703. Accessibility of polling locations to persons with disabilities.

1-5-704. Standards for accessible voting systems.

1-5-705. Accessible voter interface devices - minimum requirement.

1-5-706. Ballot access for voters with a disability - definition.

1-5-707. Voting notice required - covered entities.

PART 8
VOTER-VERIFIED PAPER RECORD

1-5-801. Acquisition of voting systems - voter-verified paper record.

1-5-802. Use of voting systems - voter-verified paper record.

PART 9
MULTILINGUAL BALLOT ACCESS

1-5-901. Short title.

1-5-902. Legislative declaration - intent.

1-5-903. Definitions.

1-5-904. Multilingual ballot hotline - creation - secretary of state - rules.

1-5-905. Multilingual ballot access - general provisions - requirements of secretary of state - county clerks.

1-5-906. Minority language sample ballots - county clerk.

1-5-907. In-person minority language ballot - county clerk - voter service and polling centers.

1-5-908. State assistance to counties for implementation costs.

PART 1

POLLING LOCATIONS

1-5-101. Establishing precincts and polling places for partisan elections.

(1) Subject to approval by the board of county commissioners, the county clerk and recorder of each county shall divide the county into as many election precincts for all general, primary, and congressional vacancy elections as is convenient for the eligible electors of the county and shall designate the place for each precinct at which elections are to be held. In establishing boundaries, the board of county commissioners shall take into consideration natural and artificial boundaries that meet the requirements of the United States bureau of the census. The precincts shall be numbered in accordance with section 1-5-101.5. Changes in the precinct boundaries of a county shall be made only within the district boundaries of each representative and senatorial district.

(2) Repealed.

(3) (a) Every county clerk and recorder, subject to approval by the board of county commissioners, shall establish at least one precinct for every one thousand five hundred active eligible electors in the county at the time of the most recent federal decennial census. However, the county clerk and recorder, subject to approval by the board, may establish one precinct for every two thousand active eligible electors.

(b) The precincts established by the county clerk and recorder in subsection (3)(a) of this section need not be modified until the precincts have more than twice as many active eligible electors as they did at the time of the most recent federal decennial census, or when they were established by the county clerk and recorder, whichever is later.

(4) Repealed.

(5) Notwithstanding section 1-5-103, and except as otherwise required by federal law, in order to facilitate the preparation of a computerized database for use in the redistricting process that will take place after the decennial census in years ending in the number zero, the precinct boundaries established by the county clerk and recorder of each county, subject to approval by the board of county commissioners, that are used in the general election in years ending in the number eight shall remain in effect until after the general election in years ending in the number zero; except that the precincts so established may be subdivided within the boundaries of the original precinct and adjacent precincts may be aggregated for purposes of data collection. In establishing precinct boundaries pursuant to the provisions of this subsection (5), county clerk and recorders and boards of county commissioners shall, to the extent reasonably possible,

utilize natural and man-made boundaries that meet the requirements for visible features adopted by the United States bureau of the census. If the precinct boundaries used in the general election in years ending in the number eight are changed prior to the next general election in years ending in the number zero pursuant to federal law, the county clerk and recorders shall timely submit in writing to the director of research of the legislative council a list showing the precincts for which the boundaries have changed.

(6) Repealed.

(7) In any county, the county clerk and recorder may alter the precinct boundaries when necessary to ensure that no precinct is located in more than one county commissioner district.

Source: L. 92: Entire article R&RE, p. 700, § 8, effective January 1, 1993. **L. 95:** Entire section amended, p. 835, § 45, effective July 1. **L. 97:** (5) added, p. 1056, § 2, effective May 27; (4) added, p. 5, § 1, effective August 6. **L. 98:** (6) added, p. 635, § 8, effective May 6. **L. 99:** (4) amended, p. 1389, § 7, effective June 4. **L. 2000:** (1) amended, p. 265, § 2, effective August 2. **L. 2004:** (4) repealed, p. 1104, § 2, effective May 27; (3) amended, p. 1343, § 4, effective May 28. **L. 2007:** (6) amended, p. 1778, § 12, effective June 1. **L. 2008:** (5) amended, p. 1743, § 4, effective July 1. **L. 2013:** (6) amended, (HB 13-1303), ch. 185, p. 703, § 29, effective May 10. **L. 2021:** (2) repealed, (3) amended, and (7) added, (HB 21-1047), ch. 70, p. 288, § 5, effective April 29.

Editor's note: (1) This section is similar to former § 1-6-101 (1) as it existed prior to 1992.

(2) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2015. (See L. 2013, p. 703.)

Cross references: (1) For transferring names of electors when precinct boundaries changed, see § 1-2-223; for the power of the board of county commissioners to form new precincts, change the names of precincts, or reduce the numbers of precincts, see § 30-11-114.

(2) For the legislative declaration contained in the 2004 act amending subsection (3), see section 1 of chapter 334, Session Laws of Colorado 2004. For the legislative declaration in HB 21-1047, see section 1 of chapter 70, Session Laws of Colorado 2021.

(3) In 2013, subsection (6) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Judicial notice taken of boundaries of election precincts. Courts take judicial notice of matters of common knowledge in the community where they sit, such as the boundaries of election precincts. Nat'l Optical Co. v. United States Fid. & Guar. Co., 77 Colo. 130, 235 P. 343 (1925); Antlers Athletic Ass'n v. Hartung, 85 Colo. 125, 274 P. 831 (1928); Israel v. Wood, 93 Colo. 500, 27 P.2d 1024 (1933).

And a court will take judicial notice of the fact that there has been a precinct established in a county, it not being material whether the precinct was established upon proper petition or by virtue of authority so to do under this section. Bd. of Comm'rs v. People ex rel. McPherson, 36 Colo. 246, 91 P. 36 (1906).

Whereupon a mandamus proceeding will be dismissed. When a court takes judicial notice that an election precinct has been established, a mandamus proceeding to compel the board of county commissioners to establish such precinct pending upon review in such court will be dismissed, there being no live question for determination. Bd. of Comm'rs v. People ex rel. McPherson, 36 Colo. 246, 91 P. 36 (1906).

Applied in Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982).

1-5-101.5. Precinct numbering.

(1) There is hereby created a precinct numbering system that shall be used by the county clerk and recorder of each county of the state in numbering election precincts established in accordance with section 1-5-101. The precinct numbering system created pursuant to this section shall not be used until the reapportionment of senatorial and representative districts required to be conducted after the 2000 federal census pursuant to section 48 of article V of the Colorado constitution is completed, but the precinct numbering system shall be implemented by each county clerk and recorder no later than July 1, 2002.

(2) Any election precinct established pursuant to the provisions of section 1-5-101 shall be numbered with a ten digit number as follows:

(a) The first digit of the precinct number shall consist of the number of the congressional district in which the precinct is contained.

(b) The second and third digits of the precinct number shall consist of the number of the state senatorial district in which the precinct is contained. If the state senatorial district consists of one digit, such digit shall be preceded by a zero for purposes of the precinct number.

(c) The fourth and fifth digits of the precinct number shall consist of the number of the state representative district in which the precinct is contained. If the state representative district consists of one digit, such digit shall be preceded by a zero for purposes of the precinct number.

(c.5) The sixth and seventh digits of the precinct number shall consist of the number assigned by the secretary of state to represent the county in which the precinct is contained.

(d) The last three digits of the precinct number shall consist of an individual precinct number as determined by the county clerk and recorder.

(3) Any changes in election precinct numbering required pursuant to this section shall be completed and reported by the county clerk and recorder to the secretary of state in accordance with section 1-5-103 (3).

Source: L. 2000: Entire section added, p. 264, § 1, effective August 2. **L. 2001:** IP(2) amended and (2)(c.5) added, p. 1003, § 8, effective August 8.

1-5-102. Establishing precincts and voter service and polling centers for nonpartisan elections.

(1) For nonpartisan elections other than coordinated elections, no later than twenty-five days prior to the election, the designated election official, with the approval of the governing body with authority to call elections, shall divide the jurisdiction into as many election precincts as it deems expedient for the convenience of eligible electors of the jurisdiction and shall designate the polling place for each precinct. The election precincts shall consist of one or more whole general election precincts wherever practicable, and the designated election official and governing body shall cooperate with the county clerk and recorder and the board of county commissioners of their political subdivisions to accomplish this purpose. Wherever possible, the polling places shall be the same as those designated by the county for partisan elections.

(2) The county clerk and recorder, no later than one hundred twenty days prior to a regular special district election or regular election of any other political subdivision, shall prepare a map of the county showing the location of the voter service and polling centers and precinct boundaries utilized in the last November election. Copies of the map shall be available for inspection at the office of the county clerk and recorder and for distribution to the designated election official of each political subdivision.

(3) The county clerk and recorder shall maintain a list of owners or contact persons who, to the clerk's knowledge, may grant permission to political subdivisions to use the locations identified on the map for voter service and polling centers. The clerk shall, upon request of the

designated election official of a political subdivision, provide a copy of the list, or a part of the list as requested by the designated election official.

Source: L. 92: Entire article R&RE, p. 700, § 8, effective January 1, 1993. **L. 94:** Entire section amended, p. 1155, § 19, effective July 1. **L. 95:** (1) amended, p. 836, § 46, effective July 1. **L. 96:** (1) amended, p. 1741, § 29, effective July 1. **L. 99:** (1) and (2) amended, p. 770, § 37, effective May 20. **L. 2013:** (2) and (3) amended, (HB 13-1303), ch. 185, p. 704, § 30, effective May 10.

Cross references: In 2013, subsections (2) and (3) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-102.5. Establishing polling places for coordinated elections. (Repealed)

Source: L. 93: Entire section added, p. 1408, § 40, effective July 1. **L. 98:** Entire section amended, p. 582, § 15, effective April 30. **L. 99:** (1) amended, p. 771, § 38, effective May 20. **L. 2004:** (2) repealed, p. 1104, § 3, effective May 27. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-102.7. Combining precincts and polling places - vote centers. (Repealed)

Source: L. 2004: Entire section added, p. 1105, § 4, effective May 27. **L. 2006:** (5) and (8) amended, p. 2031, § 9, effective June 6. **L. 2007:** (4) and (5)(b) amended, p. 1974, § 15, effective August 3. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-102.9. Voter service and polling centers - number required - services provided - drop-off locations - definition.

(1) (a) For general elections, each county clerk and recorder shall designate a minimum number of voter service and polling centers, as follows:

(I) For counties with at least two hundred fifty thousand active electors:

(A) During the period from the fifteenth day before the election to the fifth day before the election, at least one voter service and polling center for each seventy-five thousand active electors;

(B) During the period from the fourth day before the election to the second day before the election, at least one voter service and polling center for each twenty thousand active electors; and

(C) On the day before the election and on election day, at least one voter service and polling center for each twelve thousand five hundred active electors.

(II) For counties with at least thirty-seven thousand five hundred but fewer than two hundred fifty thousand active electors:

(A) During the period from the fifteenth day before the election to the fifth day before the election, at least one voter service and polling center for each seventy-five thousand active electors; except that there must be at least one voter service and polling center in each such county;

(B) During the period from the fourth day before the election to the day before the election, at least one voter service and polling center for each twenty thousand active electors; and

(C) On election day, at least one voter service and polling center for each twelve thousand five hundred active electors.

(III) Except as otherwise provided in subsection (1)(a)(V) of this section, for counties with at least ten thousand but fewer than thirty-seven thousand five hundred active electors:

(A) During the period from the fifteenth day before the election to the day before the election, at least one voter service and polling center; and

(B) On election day, at least three voter service and polling centers.

(IV) For counties with fewer than ten thousand active electors, during the fifteen-day period prior to and including the day of the election, at least one voter service and polling center.

(V) The secretary of state shall develop and administer a pilot program for elections conducted on or after July 1, 2024, but before January 1, 2027, that allows the county clerk and recorder or designated election official of a county that has at least ten thousand but fewer than thirty-seven thousand five hundred active electors, that has at least three municipalities, and in which the second and third largest municipalities that are located entirely within the county both have less than three percent of the active electors in the county, to request a waiver of the requirement to designate a minimum of three voter service and polling centers on election day pursuant to subsection (1)(a)(III) of this section. If the secretary of state allows a waiver pursuant to this subsection (1)(a)(V), the county that requested the waiver is required to designate a minimum of two voter service and polling centers on election day. The secretary of state may allow a waiver pursuant to this subsection (1)(a)(V) to only one county during the pilot program.

(b) (I) For the purposes of subsections (1)(a) and (5) of this section, the number of active electors in a county is the number of active electors registered in the county on the date of the previous presidential election or on the date of the last general election, whichever is greater.

(II) Repealed.

(b.5) (I) For a general election, a county clerk and recorder shall designate a voter service and polling center on the campus of an institution of higher education, as defined in section 23-3.1-102 (5), located within the county as follows:

(A) Notwithstanding the requirement in subsection (2) of this section, during the period from the tenth day before the election to the second day before the election, one voter service and polling center on each campus that has ten thousand or more enrolled students; and

(B) On the day before the election and on election day, one voter service and polling center on each campus that has two thousand or more enrolled students.

(II) In a county described in subsection (1)(a)(I) or (1)(a)(II) of this section, a voter service and polling center designated in accordance with this subsection (1)(b.5) may count toward the minimum requirements of subsection (1)(a) of this section. In all other counties, a voter service and polling center designated in accordance with this subsection (1)(b.5) must be in addition to the minimum requirements of subsection (1)(a) of this section.

(III) A county clerk and recorder shall confer with an institution of higher education about the location for a voter service and polling center designated on a campus.

(IV) A voter service and polling center designated under this subsection (1)(b.5) on a campus that has twenty thousand or more enrolled students on January 1 of the year of the election must be located within the student center unless such placement creates an undue burden for the institution of higher education.

(V) (A) As used in this subsection (1)(b.5), the number of enrolled students at a campus is the highest number of all full-time, part-time, graduate, and undergraduate students, not including students solely registered for online courses and concurrent enrollment students, during the fall semester of the year of the previous general election according to data collected by the department of higher education. The department of higher education shall provide the data to the secretary of state on or before December 1 of each general election year. The secretary of state shall determine from the data which campuses meet the enrollment thresholds for the next general election.

(B) Repealed.

(VI) As used in this subsection (1)(b.5), "campus" means any collection of buildings and surrounding grounds owned or used by an institution of higher education to regularly provide students with education, housing, or college activities. If one or more institutions of higher education share buildings or grounds, or if the campuses of one or more institutions of higher education are adjacent or otherwise connected, the shared or connected buildings and grounds constitute a single campus for the purposes of this subsection (1)(b.5).

(b.7) For a general election, at the request of the tribal council of an Indian tribe located on a federal reservation whose headquarters are within the county's boundaries, a county clerk and recorder shall designate a voter service and polling center within the boundaries of the reservation. The tribal council may request either two or four days of in-person voting at a voter service and polling center within the boundaries of the reservation. Two days of in-person voting include the day before election day and election day. Four days of in-person voting include the day before election day, election day, and the Friday and Saturday prior to election day. A request under this subsection (1)(b.7) must be made no later than one hundred eighty days before the date of the election.

(c) (I) In designating voter service and polling center locations pursuant to this subsection (1), each county clerk and recorder shall consider the following factors to address the needs of the county:

(A) Proximity to public transportation lines and availability of parking;

(B) Geographic features, such as mountain passes, that tend to affect access and convenience;

(C) Equitable distribution across the county so as to afford maximally convenient options for electors;

(D) The existence and location of population centers;

(E) Access for persons with disabilities;

(F) Use of existing voting locations that typically serve a significant number of electors;

(G) Use of public buildings that are known to electors in the county, especially to the extent that using such buildings results in cost savings compared to other potential locations;

(H) When private locations are considered or designated as voter service and polling centers in accordance with section 1-5-105 (3), methods and standards to ensure the security of voting conducted at such locations;

(I) Proximity to historically under-represented communities;

(J) If a proposed location was used in a previous election, the number of electors that used the location in the previous election and the recorded wait times at the location, or the number of electors and recorded wait times at nearby locations; and

(K) The need to place voter service and polling centers in population centers that had lower voter turnout in previous elections.

(I.5) A county clerk and recorder who requests the use of a public building that receives funding from government sources to designate as a voter service and polling center or drop box site shall be given priority over other uses of the building. The appropriate authority for the building may charge the clerk and recorder a reasonable rental fee not to exceed the usual rental rate for the building.

(II) In designating voter service and polling centers, a county clerk and recorder shall solicit public comments. The county clerk and recorder shall post a notice seeking public comment no later than two hundred fifty days before the election and shall accept comments through the one hundred ninetieth day before the election.

(III) (A) A county clerk and recorder shall not designate a police station, sheriff's office, or town marshal's office as a voter service and polling center; except that a county clerk and recorder may designate as a voter service and polling center a multipurpose building that includes a police station, sheriff's office, or town marshal's office.

(B) A county clerk and recorder may apply to the secretary of state for a waiver of the requirements of subsection (1)(c)(III)(A) of this section. If the secretary of state finds that there is not another equivalent site for a voter service and polling center nearby, the secretary of state shall grant the waiver.

(d) Each county clerk and recorder shall submit the proposed voter service and polling center locations to the secretary of state as part of the election plan.

(e) A county clerk and recorder may designate a greater number of voter service and polling centers than the minimum required by this section.

(f) In addition to other drop box locations in the county, a county clerk and recorder may establish a drop box at places of worship in the county.

(2) Voter service and polling centers must be open, at a minimum, for the fifteen-day period prior to and including the day of the election as follows:

(a) In a county described in subsection (1)(a)(I) or (1)(a)(II) of this section:

(I) During the period from the fifteenth day before the election to the day before the election, voter service and polling centers must be open continuously at least from 8 a.m. to 5 p.m.; except that voter service and polling centers are not required to be open on Sundays or on the first Saturday of this period.

(II) On election day, voter service and polling centers must be open continuously from 7 a.m. to 7 p.m.

(b) In all other counties:

(I) During the period from the fifteenth day before the election to the day before the election, voter service and polling centers must be open during the normal business hours for the county; except that voter service and polling centers are not required to be open on Sundays or on the first Saturday of this period, and must be open for at least four hours continuously on the second Saturday of this period.

(II) On election day, voter service and polling centers must be open continuously from 7 a.m. to 7 p.m.

(c) All voter service and polling centers shall remain open on election day as required by this subsection (2). A voter service and polling center that experiences a shortage of supplies, including ballots, shall not close and may be required to remain open after 7 p.m. in accordance with section 1-7-101 (1)(b)(I).

(3) Each voter service and polling center must provide:

(a) The ability for an eligible elector to register to vote pursuant to section 1-2-217.7;

(b) The ability for an eligible elector to cast a ballot;

(c) The ability for an eligible elector to update his or her address pursuant to section 1-2-217.7;

(d) The ability for an eligible elector who has legally changed his or her name to have his or her name changed pursuant to section 1-2-218;

(e) The ability for an unaffiliated registered elector to affiliate with a political party and cast a ballot in a primary election;

(f) Secure computer access;

(g) Facilities and equipment that are compliant with the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended;

(h) Direct record electronic voting machines or other voting systems accessible to electors with disabilities as provided in part 7 of article 5 of this title;

(i) Voting booths;

(j) Original and replacement ballots for distribution;

(k) Mail ballots to requesting electors, including a sufficient supply of replacement ballots or the ability to print a sufficient number of ballots on demand to provide to registered electors in the event there are technical problems accessing the centralized statewide voter registration system maintained pursuant to section 1-2-301;

(l) The ability to accept mail ballots that are deposited by electors;

(m) The ability of a person to cast a provisional ballot; and

(n) The ability of a person to obtain and return a form pursuant to section 1-7.5-107.3 (2)(a) confirming the person returned a ballot or to provide a copy of identification or a signature in accordance with section 1-2-502.5 (4)(c), 1-7.5-107 (3.5)(d), or 1-7.5-107.3 (1.5), in order to cure a ballot the person previously cast.

(3.5) If an elector desires to vote by casting a ballot at a voter service and polling center but there are technical problems accessing the centralized statewide voter registration system maintained pursuant to section 1-2-301 at the voter service and polling center, the elector shall be allowed to obtain and cast a replacement mail ballot if the elector's registration can be verified by contacting the county clerk and recorder by telephone or electronic mail, if practical, or by other means. If the elector's eligibility cannot be verified by a voter service and polling center election judge, the elector is entitled to cast a provisional ballot in accordance with article 8.5 of this title 1.

(4) Repealed.

(5) (a) In addition to providing voter service and polling centers in accordance with this section, counties shall also establish drop boxes for the purpose of allowing electors to deposit their completed mail ballots in a general election as follows:

(I) For counties with at least two hundred fifty thousand active electors, at least one drop box for each twelve thousand five hundred active electors.

(II) For counties with at least thirty-seven thousand five hundred but fewer than two hundred fifty thousand active electors, at least one drop box for each fifteen thousand active electors.

(III) For counties with at least fifteen thousand but fewer than thirty-seven thousand five hundred active electors, at least two drop boxes.

(IV) For counties with fewer than fifteen thousand active electors, at least one drop box.

(b) For a general election, in addition to the requirements of subsection (5)(a) of this section, a county shall establish a drop box on each campus of an institution of higher education, as defined in section 23-3.1-102 (5), located within the county that has one thousand or more enrolled students as determined in accordance with subsection (1)(b.5)(III) of this section.

(c) Each drop box must accept mail ballots delivered by electors for the twenty-two-day period prior to and including the day of the election.

(d) (I) The placement and security of each drop box must be determined by each county, subject to the requirements of subsection (5)(d)(II) of this section and in accordance with the secretary of state's current security rules. Counties are encouraged to establish drop boxes in community-based locations.

(II) A county clerk and recorder shall not establish a drop box at a police station, sheriff's office, or town marshal's office; except that:

(A) A county clerk and recorder may establish a drop box in a multipurpose building that includes either the county clerk and recorder's office or the municipal clerk's office and also includes a police station, sheriff's office, or town marshal's office; and

(B) The requirements of this subsection (5)(d)(II) do not apply to a drop box that was established on or before June 21, 2021.

(e) For a general election, in addition to the requirements of subsection (5)(a) of this section, at the request of the tribal council of an Indian tribe located on a federal reservation whose headquarters are within the county's boundaries, a county shall establish a drop box within the boundaries of the reservation. The drop box must accept ballots for the fifteen-day period prior to and including the day of the election.

(f) A county may establish additional drop-off locations at the county's discretion. A drop-off location must be located in a secure place under the supervision of a municipal clerk, an election judge, or a member of the clerk and recorder's staff.

(6) Repealed.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 704, § 31, effective May 10. **L. 2016:** (3)(f) amended, (SB 16-142), ch. 173, p. 578, § 37, effective May 18. **L. 2019:** (1)(a), (1)(b)(I), (1)(c)(I)(G), (1)(c)(I)(H), (1)(c)(II), (1)(d), (2), and (3.5) amended, (1)(b.5), (1)(b.7), (1)(c)(I)(I), (1)(c)(I.5), (1)(c)(III), (5), and (6) added, and (4) repealed, (HB 19-1278), ch. 326, p. 3020, § 30, effective August 2. **L. 2021:** (1)(b.5)(V), (1)(c)(I)(H), IP(2)(a), (3)(k), (3)(l), (3)(m), and (5)(d) amended, (1)(c)(I)(J), (1)(c)(I)(K), and (3)(n) added, and (6) repealed, (SB 21-250), ch. 282, p. 1644, § 28, effective June 21. **L. 2023:** IP(1)(b.5)(I) and (1)(b.7) amended and (1)(f) added, (SB 23-276), ch. 399, p. 2379, § 15, effective June 6. **L. 2024:** IP(1)(a)(III) and (5)(b)

amended, (1)(b.5)(V)(B) repealed, and (1)(a)(V) added, (SB 24-210), ch. 468, p. 3246, § 13, effective June 6. **L. 2025:** (5)(e) amended, (SB 25-001), ch. 178, p. 745, § 4, effective August 6. **L. 2026:** (1)(b.5)(I)(A), (1)(b.5)(III), (1)(b.5)(VI), and (5)(c) amended and (2)(c) added, (HB 26-1113), ch. 267, p. 1499, § 34, effective June 1.

Editor's note: Subsection (1)(b)(II)(B) provided for the repeal of subsection (1)(b)(II), effective January 1, 2017. (See L. 2013, p. 704.)

Cross references: (1) In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-5-103. Changes in boundaries - partisan elections.

(1) Changes in the boundaries of precincts or the creation of new precincts for partisan elections must be completed no later than twenty-nine days prior to the first Tuesday in March, except in cases of precinct changes resulting from changes in county boundaries.

(2) Subject to approval by the board of county commissioners, the county clerk and recorder shall change the location of any polling location upon a petition of a majority of the eligible electors residing within a county if the request is made at least ninety days prior to the primary election.

(3) All changes in precinct boundaries or numbering for partisan elections, including changes required pursuant to section 1-5-101.5, shall be reported within ten days by the county clerk and recorder to the secretary of state, and a corrected precinct map shall be transmitted to the secretary of state as soon as possible after the changes have been effected.

Source: L. 92: Entire article R&RE, p. 701, § 8, effective January 1, 1993. **L. 94:** (1) amended, p. 1769, § 26, effective January 1, 1995. **L. 95:** (1) amended, p. 836, § 47, effective July 1. **L. 99:** (1) amended, p. 771, § 39, effective May 20. **L. 2000:** (3) amended, p. 265, § 3, effective August 2. **L. 2002:** (1) amended, p. 134, § 5, effective March 27. **L. 2013:** (1) and (2) amended, (HB 13-1303), ch. 185, p. 707, § 32, effective May 10. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1646, § 29, effective June 21.

Editor's note: (1) This section is similar to former § 1-6-101 (2), (3), and (4) as it existed prior to 1992.

(2) Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective July 1, 2002. (See L. 2002, p. 134.)

Cross references: In 2013, subsections (1) and (2) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Applied in Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982) (decided under former law).

1-5-104. Changes in boundaries - nonpartisan elections.

(1) Changes in the boundaries of precincts or the creation of new precincts for nonpartisan elections shall be completed no later than twenty-five days prior to scheduled elections, except in cases of precinct changes resulting from changes in the jurisdiction's boundaries.

(2) All changes in precinct boundaries or numbering for nonpartisan elections shall be reported to the county clerk and recorder within ten days by the designated election official, and a corrected precinct map shall be transmitted to the county clerk and recorder as soon as possible after the changes have been effected.

(3) Each governing body shall change any polling place upon a petition of a majority of the eligible electors residing within a precinct if the request is made at least forty-five days prior to the next scheduled election and another polling place location is reasonably available.

(4) Except as provided by law, no polling place shall be changed after the twenty-fifth day prior to an election.

Source: L. 92: Entire article R&RE, p. 701, § 8, effective January 1, 1993. **L. 93:** (1) amended, p. 1408, § 41, effective July 1. **L. 96:** (1), (3), and (4) amended, p. 1742, § 30, effective July 1. **L. 99:** (1) amended, p. 771, § 40, effective May 20.

ANNOTATION

Applied in Carstens v. Lamm, 543 F. Supp. 68 (D. Colo. 1982) (decided under former law).

1-5-105. Restrictions.

(1) No election-related activity may be conducted within one hundred feet of any building in which a polling location or drop-off location is located or within one hundred feet of a drop box, except that of the conduct of the election at the polling location, drop-off location, or drop box.

(2) No polling location or drop-off location shall be located in a room in which any intoxicating malt, spirituous, or vinous liquors are being served; except that a polling location or drop-off location may be located within a multi-use building as specified in subsection (4) of this section, in which intoxicating malt, spiritous, or vinous liquors are served, so long as the polling location or drop-off location is in a separate area of the multi-use facility from where such liquors are being served.

(3) The polling locations or drop-off locations shall be in public locations wherever possible. A private location may be used only when no appropriate public location is available.

(4) For the purposes of subsection (1) of this section and section 1-13-714, when a polling location or drop-off location is within a multi-use building such as a shopping mall or county office building, the "building" is considered the room in which ballots are cast, any waiting room or hall where electors wait to vote, as well as a primary corridor where electors walk to an interior polling location or drop-off location, and the designated exterior door to the multi-use building in which the polling location or drop-off location is located.

Source: L. 92: Entire article R&RE, p. 701, § 8, effective January 1, 1993. **L. 93:** (2) and (3) amended, p. 1408, § 42, effective July 1. **L. 95:** (4) added, p. 836, § 48, effective July 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 708, § 33, effective May 10. **L. 2023:** (2) amended, (SB 23-276), ch. 399, p. 2379, § 16, effective June 6. **L. 2025:** (1) amended, (SB 25-001), ch. 178, p. 745, § 3, effective August 6.

Editor's note: This section is similar to former § 1-6-101 (5) and (6) as it existed prior to 1992. For a detailed comparison, see the comparative tables located at the back of the index.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-106. Polling location or drop-off location - designation by sign.

(1) (a) All polling locations must be designated by signs conspicuously posted pursuant to subsection (1)(b) of this section at least twenty days before each election and during the period polling locations are open. The sign shall be substantially in the following form: "Polling place/voter service and polling center for county ....". The lettering on the sign must be black on a white background. The letters and numerals of the title must be at least four inches in height. In addition, the sign must state the hours the polling location will be open.

(b) At a minimum, each polling location must be marked by at least one outdoor sign at each entrance to the parking lot or building where the polling location is located and indoor signs sufficient to locate the polling location once inside the building.

(c) A voter service and polling center on the campus of an institution of higher education designated pursuant to section 1-5-102.9 (1)(b.5)(I) must be:

(I) Designated by one or more signs posted in accordance with subsection (1)(a) of this section;

(II) Identified and described, including by building name and address and hours of operation, in signs conspicuously posted inside and at each entrance of the student center or other common area of the institution of higher education at least twenty days before each election and during the period polling locations are open; and

(III) Identified and described, including by building name and address and hours of operation, in an email sent to all enrolled students by the institution of higher education during the period ballots are mailed for the election pursuant to section 1-7.5-107 (3).

(2) All stand-alone drop-off locations must be designated by a sign conspicuously posted during the time that drop-off locations are available to receive mail ballots.

Source: L. 92: Entire article R&RE, p. 702, § 8, effective January 1, 1993. **L. 95:** Entire section amended, p. 836, § 49, effective July 1. **L. 2007:** Entire section amended, p. 1975, § 16, effective August 3. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 708, § 34, effective May 10. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1646, § 30, effective June 21. **L. 2026:** (1)(c) added, (HB 26-1113), ch. 267, p. 1500, § 35, effective June 1.

Editor's note: This section is similar to former § 1-6-102 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-107. Polling places for disabled electors - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 702, § 8, effective January 1, 1993. **L. 2004:** (2) added by revision, pp. 1361, 1213, §§ 30, 31, 108.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

1-5-108. Election judges may change polling locations and drop-off locations.

(1) (a) If it becomes impossible or impracticable to hold an election because of an emergency at the designated polling location, the election judges, after assembling at or as near as practicable to the original designated polling location, may move to the nearest convenient place for holding the election and at the newly designated place forthwith proceed with the election. The election judges shall notify the designated election official of the change as soon as possible.

(b) Upon moving to a new polling location, the election judges shall display a proclamation of the change at the original polling location to notify all electors of the new location for holding the election. The proclamation must contain a statement explaining the specific nature of the emergency that required the change in the polling location and must provide the street address of the new location.

(2) If an emergency renders a drop-off location impossible or impracticable for use in an election, the designated election official shall relocate the drop-off location to the nearest convenient place.

Source: L. 98: Entire section added, p. 583, § 16, effective April 30. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 708, § 35, effective May 10.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

PART 2

CALL AND NOTICE

1-5-201. Notice of presidential primary election. (Repealed)

Source: L. 92: Entire article R&RE, p. 702, § 8, effective January 1, 1993. **L. 93:** Entire section repealed, p. 1409, § 43, effective July 1.

1-5-201.5. Legislative declaration - purpose.

The general assembly declares that the purpose of this part 2 is to provide adequate notice of elections at a reasonable cost to the taxpayers of the state and its political subdivisions.

Source: L. 94: Entire section added, p. 1155, § 20, effective July 1.

1-5-202. Notice of presidential primary and primary election by secretary of state and county clerk and recorder. (Repealed)

Source: L. 92: Entire article R&RE, p. 702, § 8, effective January 1, 1993. **L. 93:** (1) and (2) amended, p. 1409, § 44, effective July 1. **L. 94:** Entire section amended, p. 1155, § 21, effective July 1. **L. 96:** (2) amended, p. 1742, § 31, effective July 1. **L. 99:** (1) and (2) amended, p. 771, § 41, effective May 20. **L. 2002:** Entire section repealed, p. 1642, § 39, effective June 7.

1-5-203. Certification of ballot.

(1) (a) Except as provided in subsection (1)(c) of this section, no later than sixty days before any primary election, and no later than fifty-seven days before any general or odd-year November election or congressional vacancy election, the secretary of state shall deliver by electronic transmission to the county clerk and recorder of each county a certificate in writing of the ballot order and content for each county, as follows:

(I) For general elections, the certificate shall specify the national and state officers and the district officers of state concern for whom some or all of the eligible electors of the county are entitled to cast ballots at the general election. The certificate shall include the name and party or other designation of each candidate for whom some or all of the eligible electors of the county are entitled to cast ballots and for whom a petition or certificate of nomination has been filed with the secretary of state, the name and party of each candidate nominated at the primary election for a national or state office or a district office of state concern, and the order of the ballot and the ballot content for the election. With regard to the election of members to the general assembly, the notice shall also specify the district number and the names of the members whose terms of office will expire.

(II) For primary elections, the certificate shall specify the offices for which nominations are to be made. The notice shall include a certified list of persons for whom certificates of designation or petitions have been filed with the secretary of state and the office for which each person is a candidate, together with the other details mentioned in the certificates of designation or petitions, and the order of the ballot for the primary election.

(III) For any election at which one or more ballot issues or ballot questions are to be submitted to the eligible electors of the entire state, the secretary of state shall certify the order of ballot and ballot content with respect to such ballot issues or ballot questions to the county clerk and recorder of each county of the state.

(b) The secretary of state shall be solely responsible for the accuracy of the information contained in the certificate.

(c) Repealed.

(2) (Deleted by amendment, L. 2002, p. 1626, § 4, effective June 7, 2002.)

(3) (a) No later than sixty days before any election, the designated election official of each political subdivision that intends to conduct an election shall certify the order of the ballot and ballot content. Such certification shall be delivered to the county clerk and recorder of each county that has territory within the political subdivision if the election is coordinated with the clerk and recorder. The order of the ballot and ballot content shall include the name and office of each candidate for whom a petition has been filed with the designated election official and any ballot issues or ballot questions to be submitted to the eligible electors.

(b) (Deleted by amendment, L. 2002, p. 1626, § 4, effective June 7, 2002.)

(c) The state or a political subdivision that issues a certificate pursuant to this subsection (3) shall be solely responsible for the accuracy of the information contained in the certificate. Any error that can be corrected pursuant to the provisions of section 1-5-412 shall be corrected at the expense of the political subdivision whose designated election official issued the defective certificate or, at the expense of the state, if the secretary of state issued the defective certificate.

Source: L. 92: Entire article R&RE, p. 703, § 8, effective January 1, 1993. **L. 93:** Entire section amended, p. 1409, § 45, effective July 1. **L. 94:** Entire section amended, p. 1156, § 22, effective July 1. **L. 99:** Entire section amended, p. 772, § 42, effective May 20. **L. 2002:** (1), (2), (3)(a), and (3)(b) amended, p. 1626, § 4, effective June 7. **L. 2003:** IP(1) amended, p. 495, § 2, effective March 5. **L. 2005:** IP(1) and (3)(a) amended, p. 1402, § 21, effective June 6; IP(1) and (3)(a) amended, p. 1437, § 21, effective June 6. **L. 2006:** (1) amended, p. 1487, § 1, effective June 1. **L. 2020:** IP(1)(a) amended and (1)(c) added, (HB 20-1359), ch. 23, p. 87, § 9, effective March 16. **L. 2026:** IP(1)(a) amended, (HB 26-1113), ch. 267, p. 1501, § 36, effective June 1.

Editor's note: (1) This section is similar to former § 1-6-202 as it existed prior to 1992.

(2) Subsection (1)(c)(II) provided for the repeal of subsection (1)(c), effective December 31, 2020. (See L. 2020, p. 87.)

1-5-204. Call for nominations for nonpartisan elections. (Repealed)

Source: L. 92: Entire article R&RE, p. 703, § 8, effective January 1, 1993. **L. 93:** Entire section amended, p. 1409, § 46, effective July 1. **L. 94:** Entire section amended, p. 1157, § 23, effective July 1. **L. 96:** Entire section repealed, p. 1742, § 32, effective July 1.

1-5-205. Published and posted notice of election - content.

(1) The designated election official, or the coordinated election official if so provided by an intergovernmental agreement, no later than twenty days before each election, shall provide notice by publication of the election as described by section 1-1-104 (34), which notice must state, as applicable for the particular election for which notice is provided, the following:

(a) The date of the election;

(b) The hours during which the polling locations and, as appropriate, drop-off locations will be open;

(c) The addresses of the polling locations;

(d) The addresses of the drop-off locations;

(e) Repealed.

(f) to (i) (Deleted by amendment, L. 2002, p. 1627, § 5, effective June 7, 2002.)

(1.2) (Deleted by amendment, L. 2002, p. 1627, § 5, effective June 7, 2002.)

(1.3) A copy of the notice required by this section shall be posted at least ten days prior to the election and until two days after the election in a conspicuous place in the office of the designated election official or the clerk and recorder if the election is coordinated by the clerk and recorder. Sample ballots may be used as notices so long as the information required by this section is included with the sample ballot.

(1.4) Publication of the notice required by subsection (1) of this section by the clerk and recorder for a coordinated election shall satisfy the publication requirement for all political subdivisions participating in the coordinated election.

(1.5) (Deleted by amendment, L. 2002, p. 1627, § 5, effective June 7, 2002.)

(2) At the time that notice by publication is made, the designated election official shall also mail a copy of the notice of the election to the county clerk and recorders of the counties in which the political subdivision is located if the clerk and recorder is not the coordinated election official.

(3) When there is a vacancy for an unexpired term in any national or state office or a district office of state concern that is by law to be filled at any general or congressional vacancy election, the secretary of state, no later than fifty-five days prior to the election, shall give notice in writing by publishing a notice in at least one newspaper of general circulation in the state or in the congressional district in which the vacancy is to be filled. The notice shall specify the office in which the vacancy exists, the cause of the vacancy, the name of the officer in whose office it has occurred, and the time when the term of office will expire.

(4) For a primary mail ballot election, in addition to the items described in subsection (1) of this section, the notice shall advise eligible electors who are not affiliated with a political party of the electors' ability to select and cast a ballot of one major political party in the primary election.

Source: L. 92: Entire article R&RE, p. 704, § 8, effective January 1, 1993. **L. 93:** Entire section amended, p. 1410, § 47, effective July 1. **L. 94:** Entire section amended, p. 1157, § 24, effective July 1. **L. 96:** IP(1), (1)(h), and (1)(i) amended and (1.2) added, p. 1743, § 33, effective July 1. **L. 99:** IP(1) and (1.5) amended, p. 773, § 43, effective May 20. **L. 2000:** (1)(g) amended, p. 299, § 7, effective August 2. **L. 2002:** Entire section amended, p. 1627, § 5, effective June 7. **L. 2007:** (1)(d) amended, p. 1778, § 13, effective June 1. **L. 2013:** IP(1), (1)(b), (1)(c), and (1)(d) amended, (HB 13-1303), ch. 185, p. 709, § 36, effective May 10. **L. 2016:** (1)(e) repealed and (4) added, (SB 16-142), ch. 173, p. 579, § 38, effective May 18. **L. 2019:** (4) amended, (HB 19-1278), ch. 326, p. 3026, § 31, effective August 2.

Editor's note: This section is similar to former § 1-6-202 (2) as it existed prior to 1992.

Cross references: (1) For the correction of errors in publication, see § 1-5-412.

(2) In 2013, the introductory portion to subsection (1) and subsections (1)(b), (1)(c), and (1)(d) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

I. General Consideration.

II. Notice by Secretary of State.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

II. NOTICE BY SECRETARY OF STATE.

In case of the election of officers for the executive or judicial department, the secretary of state is bound to give 30 days' notice of it, and in the case of a vacancy which is to be filled at the election, he must likewise give 30 days' notice. People ex rel. Dix v. Kerwin, 10 Colo. App. 472, 51 P. 530 (1897).

III. NOTICE BY COUNTY CLERK AND RECORDER.

A. In General.

B. Published in Newspapers.

A. In General.

The requirement that notice be published and posted for 10 days before the election is specific, precise and definite. People ex rel. Dix v. Kerwin, 10 Colo. App. 472, 51 P. 530 (1897).

The theory of elections is that there shall be due notice given to the voters, and that they must be advised either by a direct notice published by the clerk or by proceedings taken by the voters and the people generally in such way as that it may be fairly inferred that it was generally and thoroughly well understood that a particular office was to be filled at the election, so that the voters should act understandingly and intelligently in casting their ballots. People ex rel. Dix v. Kerwin, 10 Colo. App. 472, 51 P. 530 (1897).

Election conducted without notice held to be invalid. People ex rel. Dix v. Kerwin, 10 Colo. App. 472, 51 P. 530 (1897).

But under some circumstances an election may be valid notwithstanding lack of notice. See People ex rel. Dix v.

Kerwin, 10 Colo. App. 472, 51 P. 530 (1897).

For the notice requirement is not necessarily under all circumstances and at all times so far mandatory that a failure to observe it will defeat an election otherwise regularly held. People ex rel. Dix v. Kerwin, 10 Colo. App. 472, 51 P. 530 (1897).

B. Published in Newspapers.

The notice requirement is clearly intended for the benefit of the public, not the newspapers. People ex rel. Lamar Publ'g Co. v. Hoag, 54 Colo. 542, 131 P. 400 (1913).

The purpose of requiring that legal notices be published in newspapers of general circulation is not to benefit the papers but to insure that the public is aware of matters of legal importance. Resident Participation of Denver, Inc. v. Love, 322 F. Supp. 1100 (D. Colo. 1971).

And since the duty imposed by the notice requirement is a public one, its breach does not constitute a private wrong for which a publisher can recover in an individual action. People ex rel. Lamar Publ'g Co. v. Hoag, 54 Colo. 542, 131 P. 400 (1913).

However, a printer who follows the statutory requirements as to printing the nomination list cannot be denied compensation for such printing by reason of his purported nonobservance of the clerk's directions to print in another form. Bd. of Comm'rs v. Frederick, 50 Colo. 464, 115 P. 514 (1911).

And for publishing the nomination list, publishers are entitled to the reasonable value of the work, as § 24-70-107, providing for fees for publication of legal notices, does not apply. Bd. of Comm'rs v. Price, 10 Colo. App. 519, 51 P. 1011 (1898).

And a contract of the publisher of a newspaper for the legal printing for a county may be so framed as to include the printing of such lists, in case the clerk should select such newspaper for its publication. Bd. of Comm'rs v. Frederick, 50 Colo. 464, 115 P. 514 (1911).

But the publication of the list of nominations is county printing. Bd. of Comm'rs v. Frederick, 50 Colo. 464, 115 P. 514 (1911).

But inasmuch as the clerk is to select the newspaper in which the list is to be published, a contract in general terms to do the "county legal printing", at a specified rate, does not include the publication of such lists. Bd. of Comm'rs v. Frederick, 50 Colo. 464, 115 P. 514 (1911).

1-5-206. Postcard notice - reimbursement of mailing cost - definition. (Repealed)

Source: L. 92: Entire article R&RE, p. 704, § 8, effective January 1, 1993. **L. 93:** (2)(a) amended, p. 1766, § 5, effective June 6; (1) and (2)(a) amended and (4) added, p. 1410, § 48, effective July 1. **L. 94:** Entire section amended, p. 1158, § 25, effective July 1; (1) amended, p.

1769, § 27, effective January 1, 1995. **L. 95:** (1) amended, p. 837, § 50, effective July 1. **L. 97:** (1) amended, p. 477, § 19, effective July 1. **L. 99:** (2)(a) amended, p. 773, § 44, effective May 20; (1) amended, p. 1389, § 8, effective June 4; (1) amended, p. 279, § 5, effective August 4. **L. 2000:** (1) and (2) amended, p. 1084, § 1, effective August 2. **L. 2002:** (1)(b) and (2) amended, p. 1629, § 6, effective June 7. **L. 2007:** (1)(b) amended, p. 1778, § 14, effective June 1. **L. 2008:** (1)(a) amended and (5) added, p. 1875, § 2, effective June 2. **L. 2009:** (1)(a) amended, (SB 09-292), ch. 369, p. 1938, § 1, effective August 5. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 709, § 37, effective May 10. **L. 2016:** Entire section repealed, (SB 16-142), ch. 173, p. 593, § 82, effective May 18.

Editor's note: This section was similar to former § 1-2-222 (1)(a) as it existed prior to 1992.

1-5-206.5. Ballot issue notice. (Repealed)

Source: L. 94: Entire section added, p. 1159, § 26, effective July 1. **L. 96:** Entire section repealed, p. 1775, § 84, effective July 1.

1-5-206.7. Failure to receive mailed notice.

Any election for which a notice was mailed shall not be invalidated on the grounds that an eligible elector did not receive the ballot issue notice, mailed information, or mailed notification of the election required by this code or the state constitution if the designated election official or coordinated election official acted in good faith in making the mailing. Good faith is presumed if the designated election official or coordinated election official mailed the ballot issue notice, information, or notification to the addresses appearing on a registration list for the political subdivision as provided by the county clerk and recorder, and, where applicable, the list of property owners provided by the county assessor.

Source: L. 94: Entire section added, p. 1159, § 26, effective July 1.

1-5-207. Court-ordered elections.

(1) When an election is ordered by the court for a special district, the court shall authorize the designated election official to give notice as provided in the order.

(2) For an organizational election, the notice by publication shall include the purposes of the election, the estimated operating and debt service mill levies and fiscal year spending for the first year following organization, and the boundaries of the special district. The notice by publication shall recite the election date, which shall be not less than ten days after publication of the election notice.

(3) For a dissolution election, the notice by publication shall include the plan for dissolution or a summary of the plan and the place where a member of the public may inspect or obtain a copy of the complete plan. The notice by publication shall recite the election date, which shall be not less than ten days after publication of the election notice.

Source: L. 92: Entire article R&RE, p. 705, § 8, effective January 1, 1993. **L. 94:** Entire section amended, p. 1160, § 27, effective July 1.

1-5-208. Election may be canceled - when.

(1) (Deleted by amendment, L. 2010, (HB 10-1116), ch. 194, p. 832, § 11, effective May 5, 2010.)

(1.5) Except as provided in section 1-4-104.5, if the only matter before the electors in a nonpartisan election is the election of persons to office and if, at the close of business on the sixty-third day before the election, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent, the designated election official, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.

(2) Except for initiative and recall elections, no later than twenty-five days before an election conducted as a coordinated election in November, and at any time prior to any other elections, a governing body may by resolution withdraw one or more ballot issues or ballot questions from the ballot. The ballot issues and ballot questions shall be deemed to have not been submitted and votes cast on the ballot issues and ballot questions shall either not be counted or shall be deemed invalid by action of the governing body.

(3) If the electors are to consider the election of persons to office and ballot issues or ballot questions, the election may be canceled by the governing body only in the event that all of the conditions of subsection (1.5) of this section exist and that all ballot issues or ballot questions have been withdrawn from the ballot pursuant to subsection (2) of this section.

(4) Except as provided in subsection (2) of this section, no election may be canceled in part.

(5) Unless otherwise provided by an intergovernmental agreement pursuant to section 1-7-116, upon receipt of an invoice, the governing body shall within thirty days promptly pay all

costs accrued by the county clerk and recorder and any coordinating political subdivision attributable to the canceled election or withdrawn ballot issues or ballot questions.

(6) The governing body shall provide notice by publication of the cancellation of the election. A copy of the notice must be posted in the office of the designated election official and in the office of the clerk and recorder for each county in which the political subdivision is located and, for special districts, a copy of the notice must be filed in the office of the division of local government. The governing body shall also notify the candidates that the election was canceled and that they were elected by acclamation.

Source: L. 92: Entire article R&RE, p. 705, § 8, effective January 1, 1993. **L. 94:** Entire section amended, p. 1160, § 28, effective July 1; entire section amended, p. 1769, § 28, effective January 1, 1995. **L. 95:** (1) and (6) amended, p. 837, § 51, effective July 1. **L. 96:** (1) amended and (1.5) added, p. 1743, § 34, effective July 1. **L. 2000:** (2), (3), (4), and (5) amended, p. 790, § 1, effective August 2. **L. 2010:** (1) and (1.5) amended, (HB 10-1116), ch. 194, p. 832, § 11, effective May 5. **L. 2012:** (3) amended, (HB 12-1292), ch. 181, p. 682, § 19, effective May 17. **L. 2013:** (6) amended, (HB 13-1303), ch. 185, p. 710, § 38, effective May 10. **L. 2016:** (6) amended, (SB 16-142), ch. 173, p. 579, § 39, effective May 18. **L. 2018:** (6) amended, (SB 18-233), ch. 262, p. 1608, § 12, effective May 29.

Editor's note: Amendments to this section in House Bill 94-1286 and House Bill 94-1294 were harmonized.

Cross references: In 2013, subsection (6) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

PART 3

REGISTRATION RECORDS

1-5-301. Registration record for partisan elections.

(1) Digital registration records shall be maintained in the centralized statewide registration system created pursuant to section 1-2-301.

(2) The county clerk and recorder shall provide the voter registration and voting records information to election judges for use at voter service and polling centers in all applicable elections.

Source: L. 92: Entire article R&RE, p. 706, § 8, effective January 1, 1993. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 710, § 39, effective May 10. **L. 2014:** Entire section amended, (SB 14-161), ch. 160, p. 560, § 11, effective May 9.

Editor's note: This section is similar to former § 1-6-301 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-302. Computer lists may be used in lieu of original registration records.

For the purposes of all elections, the county clerk and recorder may substitute and supply computer lists of registered electors within the political subdivision for the original registration record. Following a primary, general, or congressional vacancy election, the county clerk and recorder shall record the date of election and, if a primary election, the party ballot received on the registered elector's original registration record.

Source: L. 92: Entire article R&RE, p. 706, § 8, effective January 1, 1993. **L. 95:** Entire section amended, p. 837, § 52, effective July 1. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 579, § 40, effective May 18.

Editor's note: This section is similar to former § 1-6-302 as it existed prior to 1992.

1-5-303. Registration records for nonpartisan elections.

(1) No later than the fortieth day preceding the date of the scheduled nonpartisan election, the designated election official shall order the registration records. The designated election official may order a complete list of the registered electors as of the thirtieth day prior to the election with a supplementary list provided on the twentieth day, or the designated election

official may order a complete list as of the twentieth day prior to the election. The county clerk and recorder shall certify and make available a complete copy of the list of the registered electors of each general election precinct that is located within the county and is involved in the election and, if the supplemental list is ordered no later than the twentieth day preceding the election, shall certify and make available a supplemental list of the eligible electors who have become eligible since the earlier list was certified. These lists shall substitute for the original registration record.

(2) The registration list for each election precinct that is certified thirty days before the election shall contain the names and addresses of all registered electors residing within the precinct at the close of business on the fortieth day preceding the election. The registration list for each election precinct that is certified no later than twenty days before the election shall contain the names and addresses of all eligible electors residing within the precinct at the close of business on the thirtieth day prior to the election. If a supplemental list is ordered, it shall contain the names and addresses of all eligible electors who have become eligible within the period since the initial registration list was certified through the close of business on the thirtieth day preceding the election.

(3) Costs for the lists shall be assessed by the county clerk and recorder and paid by the political subdivision holding the election. The fee for furnishing the lists shall be no less than twenty-five dollars for the entire list nor more than one cent for each name contained on the registration list, whichever is greater.

(4) The order for the list may be canceled if the election is canceled pursuant to section 1-5-208 and the county clerk and recorder has not already prepared the list.

Source: L. 92: Entire article R&RE, p. 706, § 8, effective January 1, 1993. **L. 95:** (1) and (2) amended, p. 838, § 53, effective July 1.

1-5-304. Lists of property owners.

(1) For elections where owning property in the political subdivision is a requirement for voting in the election, no later than the fortieth day preceding the date of the election, the designated election official, in addition to using the affidavit prescribed in section 32-1-806, C.R.S., shall order the list of property owners from the county assessor. Except as otherwise required under subsection (2) of this section, the county assessor shall certify and deliver an initial list of all recorded owners of taxable real and personal property within the political subdivision no later than thirty days before the election. The supplemental list for the political subdivision shall be provided no later than twenty days before the election and shall contain the names and addresses of all recorded owners who have become owners no later than thirty days

prior to the election and after the initial list of property owners was provided. The cost for the lists shall be assessed by the county assessors and paid by the political subdivision holding the election. The fee for furnishing the lists shall be no less than twenty-five dollars for both lists nor more than one cent for each name contained on the lists, whichever is greater.

(2) The designated election official of a special district may order the list described in subsection (1) of this section of all recorded owners of taxable real and personal property within the special district as of the thirtieth day before the election with a supplementary list to be provided on the twentieth day before the election, or the designated election official may order a complete list as of the twentieth day before the election.

Source: L. 92: Entire article R&RE, p. 707, § 8, effective January 1, 1993. **L. 93:** Entire section amended, p. 1411, § 49, effective July 1. **L. 94:** Entire section amended, p. 1161, § 29, effective July 1. **L. 99:** Entire section amended, p. 773, § 45, effective May 20; entire section amended, p. 451, § 6, effective August 4.

Editor's note: Amendments to this section by Senate Bill 99-025 and House Bill 99-1268 were harmonized.

PART 4

BALLOTS

1-5-401. Method of voting.

(1) For all general, primary, congressional vacancy, coordinated, odd-year, and recall elections, and for any election in which the governing body of a political subdivision other than a county determines that an election shall be by mail ballot, the county clerk and recorder or designated election official for the political subdivision, as applicable, shall conduct the election by mail ballot; except that votes cast at voter service and polling centers may be by paper ballots or by electronic or electromechanical voting systems.

(2) For any election that the governing body of a political subdivision determines will be an independent mail ballot election, the designated election official for that political subdivision shall conduct the election by mail ballot in accordance with article 13.5 of this title.

Source: L. 92: Entire article R&RE, p. 707, § 8, effective January 1, 1993. **L. 2004:** Entire section amended, p. 1343, § 5, effective May 28. **L. 2013:** Entire section amended, (HB 13-

1303), ch. 185, p. 710, § 40, effective May 10. **L. 2014:** Entire section amended, (HB 14-1164), ch. 2, p. 3, § 2, effective February 18.

Editor's note: This section is similar to former § 1-6-401 (1) as it existed prior to 1992.

Cross references: (1) For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 334, Session Laws of Colorado 2004. For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

(2) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-402. Primary election ballots.

(1) No later than thirty-two days before the primary election, the county clerk and recorder shall prepare a separate ballot for each political party. The county clerk and recorder shall ensure that the ballots are printed in the following manner:

(a) The county clerk and recorder shall ensure that all official ballots are printed according to the provisions of section 1-5-407; except that across the top of each ballot must be printed the name of the political party for which the ballot is to be used.

(b) The positions on the ballot shall be arranged as follows: First, candidates for United States senator; next, congressional candidates; next, state candidates; next, legislative candidates; next, district attorney candidates; next, other candidates for district offices greater than a county office; next, candidates for county commissioners; next, county clerk and recorder candidates; next, county treasurer candidates; next, county assessor candidates; next, county sheriff candidates; next, county surveyor candidates; and next, county coroner candidates. When other offices are to be filled at the coming general election, the county clerk and recorder, in preparing the primary ballot, shall use substantially the form prescribed by this section, stating the proper designation of the office and placing the names of the candidates for the office under the name of the office.

(2) Repealed.

Source: L. 92: Entire article R&RE, p. 707, § 8, effective January 1, 1993. **L. 93:** (1)(a) amended, p. 1766, § 6, effective June 6. **L. 99:** IP(1) amended, p. 774, § 46, effective May 20. **Initiated 2016:** (2) added, Proposition 108, effective upon proclamation of the Governor,

December 27, 2016. See L. 2017, p. 2825. **L. 2018:** (2) repealed, (SB 18-233), ch. 262, p. 1608, § 13, effective May 29. **L. 2024:** IP(1) and (1)(a) amended, (SB 24-210), ch. 468, p. 3247, § 14, effective June 6.

Editor's note: (1) This section is similar to former § 1-6-401 (2) as it existed prior to 1992.

(2) This section was amended by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

Cross references: (1) For order of names on a primary ballot, see § 1-4-103; for designation of candidates by party assembly, see § 1-4-601; for designation of party candidates by petition, see § 1-4-603; for conduct of primary elections, see part 2 of article 7 of this title.

(2) For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Ineligible candidate's name removed from ballot by best means available. In a contest involving the eligibility of a party designee in a primary election, where the party is found to be ineligible, is not error for a trial court to order such person's name eliminated from the ballot by the best means available, rather than requiring reprinting of the ballots, or to direct the county clerks not to certify absentee ballots already cast for the ineligible candidate. Anderson v. Kilmer, 134 Colo. 270, 302 P.2d 185 (1956).

And ordering that the name of an ineligible candidate be stricken from the ballots by blocking out, by printing, or by striking out with a colored pencil is not in violation of the provision that there shall be no other printing or distinguishing marks on the ballot except as specifically provided. Anderson v. Kilmer, 134 Colo. 270, 302 P.2d 185 (1956).

1-5-403. Content of ballots for general and congressional vacancy elections.

(1) The county clerk and recorder of each county using paper ballots or electronically counted ballot cards shall provide printed ballots for every odd-numbered year, general, or

congressional vacancy election. The official ballots shall be printed and in the possession of the county clerk and recorder no later than thirty-two days before every odd-numbered year, congressional vacancy, and general election.

(2) For all elections except those for presidential electors, every ballot shall contain the names of all candidates for offices to be voted for at that election whose nominations have been made and accepted, except those who have died or withdrawn, and the ballot shall contain no other names. When presidential electors are to be elected, their names shall not be printed on the ballot, but the names of the candidates of the respective political parties or political organizations for president and vice president of the United States shall be printed together in pairs under the title "presidential electors". The pairs shall be arranged in the alphabetical order of the names of the candidates for president in the manner provided for in section 1-5-404. A vote for any pair of candidates is a vote for the duly nominated presidential electors of the political party or political organization by which the pair of candidates were named.

(3) The names of joint candidates of a political party or political organization for the offices of governor and lieutenant governor shall be printed in pairs. The pairs shall be arranged in the alphabetical order of the names of candidates for governor in the manner provided for in section 1-5-404. A vote for any pair of candidates for governor and lieutenant governor is a vote for each of the candidates who compose that pair.

(4) The name of each person nominated shall be printed or written upon the ballot in only one place. Each nominated person's name may include one nickname, if the person regularly uses the nickname and the nickname does not include any part of a political party name. Opposite the name of each person nominated, including candidates for president and vice president and joint candidates for governor and lieutenant governor, shall be the name of the political party or political organization which nominated the candidate, expressed in not more than three words. Those three words may not promote the candidate or constitute a campaign promise.

(5) The positions on the ballot shall be arranged as follows: First, candidates for president and vice president of the United States; next, candidates for United States senator; next, congressional candidates; next, joint candidates for the offices of governor and lieutenant governor; next, other state candidates; next, legislative candidates; next, district attorney candidates; next, candidates for the board of directors of the regional transportation district; next, other candidates for district offices greater than a county office; next, candidates for county commissioners; next, county clerk and recorder candidates; next, county treasurer candidates; next, county assessor candidates; next, county sheriff candidates; next county surveyor candidates; and next, county coroner candidates. When other offices are to be filled, the county clerk and recorder, in preparing the ballot, shall use substantially the form prescribed by this section, stating the proper designation of the office and placing the names of the candidates for the office under the name of the office. The ballot issues concerning the retention in office of justices of the supreme court, judges of the court of appeals, judges of the district court, and

judges of the county court shall be placed on the ballot in that order and shall precede the placement of ballot issues concerning amendment of the state constitution or pertaining to political subdivisions.

Source: L. 92: Entire article R&RE, p. 708, § 8, effective January 1, 1993. **L. 97:** (1) amended, p. 184, § 1, effective August 6. **L. 99:** (1) amended, p. 774, § 47, effective May 20. **L. 2012:** (4) amended, (HB 12-1292), ch. 181, p. 682, § 20, effective May 17.

Editor's note: This section is similar to former § 1-6-402 as it existed prior to 1992.

Cross references: For provision requiring joint election of governor and lieutenant governor, see § 1-4-204; for requirement that write-in candidate file affidavit of intent, see § 1-4-1101; for ballots for primary elections, see § 1-5-402; for printing and distribution of ballots, see § 1-5-410; for the furnishing of cards of instruction to election judges, see § 1-5-504; for the manner of voting in precincts which use paper ballots, see § 1-7-304; for ballots defectively marked, see § 1-7-309.

ANNOTATION

I. General Consideration.

II. Use of Paper Ballots.

III. Name to be Printed in One Place.

IV. Ballots to Allow Cross Marks.

V. Spaces for Write-ins.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

All provisions for the form of ballots are mandatory in the sense that they impose a duty upon those who come within their terms. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

It does not follow, however, that an election should be invalidated because of every departure on the part of public officers from the ballot arrangement requirements. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

Rather, a ballot should be admitted if the spirit and intention of the requirements are not violated, even though the ballot is not literally in accordance with them; for, unless a statute declares that a strict compliance with its requirements by the voters is essential to have their ballots counted, courts will not undertake to disfranchise them if, in the attempted exercise of their right, there is manifestly an effort to comply in good faith with the

statutory requirements. Kellogg v. Hickman, 12 Colo. 256, 21 P. 325 (1888); Young v. Simpson, 21 Colo. 460, 42 P. 666 (1895); Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

II. USE OF PAPER BALLOTS.

The legislative intent in prescribing the form, size, color of paper, etc., of ballots to be used by voters is to guard the secrecy of the ballot and secure to the voter the right of suffrage, free of restraint. Kellogg v. Hickman, 12 Colo. 256, 21 P. 325 (1888).

Thus, a ballot is not illegal merely because printed differently. After a ballot has been voted, received, and counted, courts are not authorized, in the absence of constitutional restrictions as to the manner of exercising the right of suffrage, in declaring such ballot illegal merely because printed on paper of different quality, color, or dimension from that prescribed. Kellogg v. Hickman, 12 Colo. 256, 21 P. 325 (1888).

Furthermore, objection to irregularities in printing of ballots is too late after the vote. When public officers are entrusted with the preparation of ballots and ample provision is made for the correction of errors before an election, it is too late after they have been voted, as a general rule, to interpose objections to the ballots for mere irregularities in the printing thereof. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

And it cannot be held that a printer may not recover because of a disregard of the prescribed ballot arrangement, or for a supposed nonobservance of the directions of the clerk, where, as matter of fact, the ballot list was published in the form contemplated, or at least permitted, by statutory requirements. Bd. of Comm'rs v. Frederick, 50 Colo. 464, 115 P. 514 (1911).

But opposing candidate with notice of emblem mistake cannot lie by and allow voters to be misled. If the county clerk makes a mistake in designating a candidate on the ballot as the nominee of a political party represented by an emblem, and the opposing candidate having notice of such mistake in time to have the mistake corrected, he will not be permitted to lie by and allow voters to be misled thereby and afterwards take advantage of such defect to defeat the expressed will of a majority of the voters. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892); Dickinson v. Freed, 25 Colo. 302, 55 P. 812 (1898).

III. NAME TO BE PRINTED IN ONE PLACE.

The ballot arrangement requirements do not attempt to restrict the right of selecting an emblem to any particular kind, or class, of political parties. Schafer v. Whipple, 25 Colo. 400, 55 P. 180 (1898).

But separate column for political designations required. While the ballot arrangement requirements do not in specific terms provide for a separate column for political designations, a fair interpretation or construction thereof so requires, since opposite the name of each candidate must be added the party name, and this, in some cases at least, might not be done without double columns. Bd. of Comm'rs v. Frederick, 50 Colo. 464, 115 P. 514 (1911).

IV. BALLOTS TO ALLOW CROSS MARKS.

Voter must express his choice by making an "X" opposite name of candidate. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

V. SPACES FOR WRITE-INS.

Voters must make cross mark when they write in more than one name. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

1-5-404. Arrangement of names on ballots for partisan elections.

(1) In all partisan elections, the names of all candidates and joint candidates who have been duly nominated for office shall be arranged on the ballot under the designation of the office in three groups as follows:

(a) The names of the candidates of the major political parties shall be placed on the general election ballot in an order established by lot and shall comprise the first group; except that the joint candidates for president and vice president and the joint candidates for governor and lieutenant governor shall be arranged in the alphabetical order of the names of the candidates for president and governor.

(b) The names of the candidates and joint candidates of the minor political parties shall be listed in an order established by lot and shall comprise the second group; except that the joint candidates for president and vice president and the joint candidates for governor and lieutenant governor shall be arranged in the alphabetical order of the names of the candidates for president and governor.

(c) The names of the candidates and joint candidates of the remaining political organizations shall be listed in an order established by lot and shall comprise the third group; except that the joint candidates for president and vice president and the joint candidates for governor and lieutenant governor shall be arranged in the alphabetical order of the names of the candidates for president and governor.

(2) Between July 1 and July 15 of each election year, the officer in receipt of the original designation, nomination, or petition of each candidate shall inform the major political parties, each minor political party that has nominated at least one candidate, and the representative of each political organization that has filed a nominating petition for at least one candidate of the time and place of the lot-drawing for offices to appear on the general election ballot. Ballot positions shall be assigned to the major political party, minor political party, or political organization in the order in which they are drawn. The name of the candidate shall be inserted on the ballot prior to the ballot certification.

(3) Repealed.

Source: L. 92: Entire article R&RE, p. 710, § 8, effective January 1, 1993. **L. 93:** (1) and (3) amended, p. 1411, § 50, effective July 1. **L. 98:** Entire section amended, p. 258, § 11, effective April 13. **L. 2012:** (1)(a), (2), and (3) amended, (HB 12-1292), ch. 181, p. 682, § 21, effective May 17. **L. 2019:** (2) amended, (HB 19-1278), ch. 326, p. 3026, § 32, effective August 2. **L. 2026:** (3) repealed, (HB 26-1113), ch. 267, p. 1501, § 37, effective June 1.

Editor's note: This section is similar to former § 1-6-403 as it existed prior to 1992.

Cross references: For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

No constitutionally cognizable classification scheme is employed by the state in applying this section. This section is facially neutral and neither excludes minority parties from the ballot nor prevents them from attaining major political party status. Libertarian Party of Colo. v. Buckley, 938 F. Supp. 687 (D. Colo. 1996).

Subsection (1) does not offend the equal protection clause nor infringe on individual plaintiffs' voting rights under the first amendment of the U.S. constitution. Libertarian Party of Colo. v. Buckley, 8 F. Supp. 2d 1244 (D. Colo. 1998).

1-5-405. Arrangement of names on voting machines - testing of machines - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 710, § 8, effective January 1, 1993. **L. 93:** Entire section R&RE, p. 1412, § 51, effective July 1. **L. 2004:** (4) added by revision, pp. 1361, 1213, §§ 30, 31, 108.

Editor's note: Subsection (4) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

1-5-406. Content of ballots for nonpartisan elections.

The designated election official shall provide printed ballots for every election. The official ballots shall be printed and in the possession of the designated election official at least thirty days before the election. Every ballot shall contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn, and the ballot shall contain no other names. The arrangement of the names shall be established by lot at any time prior to the certification of the ballot. The designated election official shall notify the candidates of the time and place of the lot-drawing for the ballot. The drawing shall be performed by the designated election official or a designee. The names shall be printed on the ballot without political party designation.

Source: L. 92: Entire article R&RE, p. 712, § 8, effective January 1, 1993. **L. 93:** Entire section amended, p. 1412, § 52, effective July 1.

1-5-407. Form of ballots.

(1) (a) All ballots must be uniform and of sufficient length and width to allow for the names of candidates, officers, ballot issues, and ballot questions to be printed in clear, plain type, with a space between the different columns on the ballot. On each ballot the endorsement "Official ballot for ....." must be printed, and after the word "for" follows the designation of the precinct, if appropriate, and the political subdivision for which the ballot is prepared, the date of the election, and a facsimile of the signature of the election official. The ballot shall not contain any caption or other endorsement, except as provided in this section. The election official shall use the same quality and tint of paper, the same kind of type, and the same quality and tint of plain black ink for all ballots prepared for one election.

(b) If the designated election official, in his or her discretion, elects to use ballot stubs, each ballot may have either one or two stubs to be divided into two spaces by two perforated or dotted lines. Each such space must be at least one inch wide. The top portion is called the stub and the next portion is called the duplicate stub. All ballots prepared under this paragraph (b) must be numbered consecutively. The same number must be printed on both the stub and the duplicate stub.

(1.5) Repealed.

(1.6) A ballot stub may be used, but is not required, for a ballot produced on demand, so long as the quantity of ballots produced for the election can be reconciled by the ballot processing method used by the voting system. Such ballots may contain printed and distinguishing marks, so long as secrecy in voting is protected.

(2) The ballots shall be printed so as to give to each eligible elector a clear opportunity to designate his or her choice of candidates, joint candidates, ballot issues, and ballot questions by a mark as instructed. On the ballot may be printed words that will aid the elector, such as "vote for not more than one".

(3) At the end of the list of candidates for each different office shall be one or more blank spaces in which the elector may write the name of any eligible person not printed on the ballot who has filed an affidavit of intent of write-in candidate pursuant to section 1-4-1101. The number of spaces provided shall be the lesser of the number of eligible electors who have properly filed an affidavit of intent of write-in candidate pursuant to section 1-4-1101 or the number of persons to be elected to the office. No such blank spaces shall be provided if no eligible elector properly filed an affidavit of intent of write-in candidate.

(4) The names of the candidates for each office shall be arranged under the designation of the office as provided in section 1-5-404. The designated election official shall not print, in connection with any name, any title or degree designating the business or profession of the candidate. Each candidate's name may include one nickname, if the candidate regularly uses the nickname and the nickname does not include any part of a political party name.

(4.5) If no candidate has been duly nominated and no person has properly filed an affidavit of intent of write-in candidate for an office, the following text shall appear under the designation of the office: "There are no candidates for this office.".

(5) (a) Whenever the approval of a ballot issue or ballot question is submitted to the vote of the people, the ballot issue or question shall be printed upon the ballot following the lists of candidates. Except as otherwise provided in section 32-9-119.3 (2), C.R.S., referred amendments shall be printed first, followed by initiated amendments, referred propositions, initiated propositions, county issues and questions, municipal issues and questions, school district issues and questions, ballot issues and questions for other political subdivisions which are in more than one county, and then ballot issues and questions for other political subdivisions which are wholly within a county.

(b) Beginning with the 2010 general election:

(I) Each proposed change to the state constitution, whether initiated by the people or referred to the people by the general assembly, shall be identified on the ballot as an "amendment";

(II) Each proposed change to the Colorado Revised Statutes, whether initiated by the people or referred to the people by the general assembly, shall be identified on the ballot as a "proposition"; and

(III) A ballot issue or question containing both a proposed change to the state constitution and a proposed change to the Colorado Revised Statutes shall be identified on the ballot as an "amendment".

(5.3) (a) Commencing with the general election held in November 2010, each statewide measure initiated by the people that is a proposed change to the state constitution shall be numbered consecutively in regular numerical order beginning with the number sixty. Such consecutive numbering of measures shall continue at any odd-year or general election held after such election at which any such measure is on the ballot beginning with the number following the highest number utilized in the previous election until the number ninety-nine is utilized at an election for any such measure. Such measures shall again be numbered consecutively in regular numerical order beginning with the number one and in accordance with this paragraph (a) following the utilization of the number ninety-nine for any such measure. The secretary of state may promulgate rules as may be necessary to administer this paragraph (a). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(b) Commencing with the general election held in November 2010, each statewide measure initiated by the people that is a proposed change to the Colorado Revised Statutes shall be numbered consecutively in regular numerical order beginning with the number one hundred one. Such consecutive numbering of measures shall continue at any odd-year or general election held after such election at which any such measure is on the ballot beginning with the number following the highest number utilized in the previous election until the number one hundred ninety-nine is utilized at an election for any such measure. Such measures shall again be numbered consecutively in regular numerical order beginning with the number one hundred one and in accordance with this paragraph (b) following the utilization of the number one hundred ninety-nine for any such measure. The secretary of state may promulgate rules as may be necessary to administer this paragraph (b). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(5.4) (a) Commencing with the general election held in November 2010, each statewide measure referred to the people by the general assembly that is a proposed change to the state constitution shall be lettered consecutively in regular alphabetical order beginning with the letter P. The consecutive lettering of such statewide referred measures shall continue at any odd-year or general election held after the election at which any statewide referred measure is on the ballot beginning with the letter following the last letter utilized in the previous election until the letter Z is utilized at an election for such a statewide referred measure. Such statewide referred measures shall again be lettered consecutively in regular alphabetical order beginning with the letter A and in accordance with this paragraph (a) following the utilization of the letter Z for any such statewide referred measure. The secretary of state may promulgate rules as may be necessary to administer this paragraph (a). Any rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(b) Commencing with the general election held in November 2010, each statewide measure referred to the people by the general assembly that is a proposed change to the Colorado Revised Statutes shall be double-lettered consecutively in regular alphabetical order beginning with the letters AA. The consecutive lettering of such statewide referred measures shall continue at any

odd-year or general election held after the election at which any statewide referred measure is on the ballot beginning with the letters following the last letters utilized in the previous election until the letters ZZ are utilized at an election for such a statewide referred measure. Such statewide referred measures shall again be lettered consecutively in regular alphabetical order beginning with the letters AA and in accordance with this paragraph (b) following the utilization of the letters ZZ for any such statewide referred measure. The secretary of state may promulgate rules as may be necessary to administer this paragraph (b). Any rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(5.5) The coordinated election official may choose to follow the provisions of subsection (5) of this section, or may choose to use separate ballots. If separate ballots are used, the candidates shall be listed first, followed by measures to increase taxes, measures to increase debt, citizen petitions, and referred measures.

(6) Whenever candidates are to be voted for only by the eligible electors of a particular district, county, or other political subdivision, the names of those candidates shall not be printed on any ballots other than those provided for use in the district, county, or political subdivision in which those candidates are to be voted on.

(7) No printing or distinguishing marks shall be on the ballot except as specifically provided in this code, or in section 1-40-106 (3)(e) to (3)(g) and (3)(j).

(8) Repealed.

(9) If a referred measure, including but not limited to a measure referred by the school board of a multicounty school district or the board of directors of a multicounty special district to the registered electors of the school district or special district, is referred to registered electors of multiple counties, the alphabetical, numerical, or alphanumerical designation used to identify the measure shall be identical on each ballot that includes the measure.

Source: L. 92: Entire article R&RE, p. 712, § 8, effective January 1, 1993. **L. 93:** (1) and (5) amended and (5.5) added, p. 1412, § 53, effective July 1. **L. 94:** (1) amended and (8) added, p. 1161, § 30, effective July 1. **L. 96:** (3) amended, p. 1743, § 35, effective July 1. **L. 97:** (1) amended and (1.5) added, p. 184, § 2, effective August 6. **L. 2000:** (5.3) added, p. 299, § 8, effective August 2. **L. 2002:** (1), (2), (3), and (4) amended and (1.6) and (4.5) added, p. 1630, § 7, effective June 7. **L. 2005:** (5) amended and (5.4) and (9) added, p. 1265, § 1, effective June 3. **L. 2009:** (5) amended, (SB 09-108), ch. 5, p. 48, § 3, effective March 2; (5), (5.3), and (5.4) amended, (HB 09-1326), ch. 258, p. 1167, § 1, effective January 1, 2010. **L. 2010:** (5)(a) amended, (SB 10-216), ch. 413, p. 2041, § 1, effective June 10. **L. 2012:** (4) and (5)(b) amended, (HB 12-1292), ch. 181, p. 683, § 22, effective May 17. **L. 2014:** (1) and (1.6) amended and (1.5) and (8) repealed, (SB 14-161), ch. 160, p. 560, § 12, effective May 9. **L. 2021:** (7) amended, (HB 21-1321), ch. 474, p. 3395, § 2, effective July 7. **Referred 2022:** (7) amended, Proposition GG,

(SB 22-222), ch. 508, p. 4275, § 1, effective upon proclamation of the Governor, December 27, 2022. See L. 2023, p. 3636.

Editor's note: (1) This section is similar to former § 1-6-402 as it existed prior to 1992.

(2) Amendments to subsection (5) by Senate Bill 09-108 and House Bill 09-1326 were harmonized.

(3) Subsection (7) was amended by SB 22-222. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of Colorado on November 8, 2022. The amended version of subsection (7) took effect upon proclamation of the Governor, December 27, 2022. The vote count for the measure was as follows:

YES: 1,704,757

NO: 665,476

Cross references: For the short title ("Ballot Measure Fiscal Transparency Act of 2021") in HB 21-1321, see section 1 of chapter 474, Session Laws of Colorado 2021.

1-5-408. Form of ballots - electronic voting. (Repealed)

Source: L. 92: Entire article R&RE, p. 713, § 8, effective January 1, 1993. **L. 97:** (4) amended, p. 185, § 3, effective August 6. **L. 2004:** (1), (3), and (4) amended, p. 1344, § 6, effective May 28. **L. 2013:** (3) amended and (4) repealed, (HB 13-1303), ch. 185, p. 711, § 41, effective May 10. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3247, § 15, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-6-405 as it existed prior to 1992.

1-5-409. Single cross mark for party slate not permitted.

Each office in every election shall be voted upon separately, and no emblem, device, or political party designation shall be used on the official ballot at any election by which an eligible elector may vote for more than one office by placing a single cross mark on the ballot or by writing in the name of any political party or political organization.

Source: L. 92: Entire article R&RE, p. 714, § 8, effective January 1, 1993.

Editor's note: This section is similar to former § 1-6-406 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Prior to the enactment of this section, a cross marked in ink against a party emblem on a ballot indicated a vote for the entire set of candidates of that party, while a cross so marked opposite the name of an individual candidate indicated a vote for that individual. When a ballot was marked against a party emblem, thereby indicating a vote for the entire list of candidates of such party, and was also marked against one or more names of candidates in another list, the ballot was void as to any office so doubly marked. Heiskell v. Landrum, 23 Colo. 65, 46 P. 120 (1896).

And where the voter wrote, in the blank above the list of nominations, the name of a particular party, he indicated an intention to vote for all the candidates of that party named upon the ballot, unless, he manifested a different intention, i.e., by inserting an "X" opposite the name of an opposing candidate, or if there are two or more candidates for the same office, by drawing a line through the name of those, or the one, for whom he did not desire to vote. Bromley v. Hallock, 57 Colo. 148, 140 P. 186 (1914).

1-5-410. Printing and distribution of ballots.

(1) In political subdivisions using paper ballots or electronic ballot cards, the designated election official shall have a sufficient number of ballots printed and distributed to the election judges in the respective polling locations.

(2) This section does not apply to any election in which a ballot-on-demand system is used.

Source: L. 92: Entire article R&RE, p. 714, § 8, effective January 1, 1993. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 711, § 42, effective May 10.

Editor's note: This section is similar to former § 1-6-407 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-411. Substitute ballots.

If the ballots to be furnished to any election judges are not delivered at the time and in the manner required in section 1-5-410 or if after delivery they are destroyed or stolen, it shall be the duty of the designated election official to cause other ballots to be prepared, as nearly in the form prescribed as practicable, with the words "substitute ballot" printed on each ballot. Upon receipt of the ballots thus prepared from the designated election official, accompanied by a statement under oath that the designated election official prepared and furnished the substitute ballots and that the original ballots have not been received or have been destroyed or stolen, the election judges shall cause the substitute ballots to be used at the election. If from any cause neither the official ballots nor the substitute ballots are ready in time to be distributed for the election or if the supply of ballots is exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, may be used until substitutes prepared by the designated election official can be printed and delivered.

Source: L. 92: Entire article R&RE, p. 715, § 8, effective January 1, 1993.

Editor's note: This section is similar to former § 1-6-408 as it existed prior to 1992.

1-5-412. Correction of errors.

(1) The designated election official shall correct without delay any errors in publication or in sample or official ballots which are discovered or brought to the official's attention and which can be corrected without interfering with the timely distribution of the ballots.

(2) When it appears by verified petition of a candidate or the candidate's agent to any district court that any error or omission has occurred in the publication of the names or description of the candidates or in the printing of sample or official election ballots which has been brought to the attention of the designated election official and has not been corrected, the court shall issue an order requiring the designated election official to correct the error forthwith or to show cause why the error should not be corrected. Costs, including reasonable attorney fees, may be assessed in the discretion of the court against either party.

(3) If, before the date set for election, a duly nominated candidate withdraws by filing an affidavit of withdrawal with the designated election official, or dies and the fact of the death becomes known to the designated election official before the ballots are printed, or is deemed disqualified, the name of the candidate shall not be printed on the ballots. Except in the case of a vacancy to be filled in accordance with section 1-4-1005, 1-4-1006, or 1-4-1009, if the ballots are already printed, the votes cast for the withdrawn, deceased, or disqualified candidate are invalid and shall not be counted.

Source: L. 92: Entire article R&RE, p. 715, § 8, effective January 1, 1993. **L. 99:** (3) amended, p. 934, § 3, effective August 4. **L. 2007:** (3) amended, p. 1975, § 17, effective August 3. **L. 2017:** (3) amended, (SB 17-209), ch. 234, p. 963, § 9, effective August 9.

Editor's note: This section is similar to former § 1-6-409 as it existed prior to 1992.

Cross references: For taxing reasonable attorney fees in favor of the defendant when an action is vexatiously commenced, see C.R.C.P. 3(a).

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The purpose of allowing the correction of errors is to give the opposing candidate ample opportunity to see that his opponent's name was not upon an unauthorized ticket or under a device to the use of which he was not entitled. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

As the fundamental object of all election laws is the freedom and purity of the ballot. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

And ample provision is made for the correction of ballots prior to the election. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

But it is the duty of candidates to make such objections in seasonable time, since it would not be in the interest of a fair expression of the will of the people to allow a candidate to lie by and not point out such objections as he may have to the form of the ballot until after the election has been held. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

Moreover, the voter has no control whatever over the publication of the names of candidates or the form of the ballots. If, for some defect in these particulars, the ballot must be rejected, the

door would be open to fraud. Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892).

Clerk cannot correct improper certification of nominations. It is the duty of the county clerk to cause to be printed the names as certified to him by the secretary of state, and if such nominations are improperly certified, it constitutes no such error or omission in the publication of the names or description of the candidates as he is authorized to correct. Smith v. Harris, 18 Colo. 274, 32 P. 616 (1893).

1-5-413. Sample ballots.

Sample ballots must be printed in the form of official ballots, but must be clearly marked as "SAMPLE BALLOT". Sample ballots must be delivered to the election judges and posted with the cards of instruction provided for in section 1-5-504. All sample ballots are subject to public inspection.

Source: L. 92: Entire article R&RE, p. 716, § 8, effective January 1, 1993. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 579, § 41, effective May 18.

Editor's note: This section is similar to former § 1-6-410 as it existed prior to 1992.

PART 5

POLLING PLACE SUPPLIES AND EQUIPMENT

1-5-501. Sufficient voting booths, voting machines, or electronic voting equipment.

(1) At all elections in political subdivisions that use paper ballots, the governing body shall provide in each polling location a sufficient number of voting booths. Each voting booth shall be situated so as to permit eligible electors to prepare their ballots screened from observation and shall be furnished with supplies and conveniences necessary for voting.

(2) At all elections in political subdivisions that use electronic or electromechanical voting systems, the designated election official shall supply each polling location with sufficient voting equipment.

Source: L. 92: Entire article R&RE, p. 716, § 8, effective January 1, 1993. **L. 2004:** (2) amended, p. 1344, § 7, effective May 28. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 712, § 43, effective May 10.

Editor's note: This section is similar to former § 1-6-501 as it existed prior to 1992.

Cross references: (1) For the legislative declaration contained in the 2004 act amending subsection (2), see section 1 of chapter 334, Session Laws of Colorado 2004.

(2) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Mere irregularities in the conduct of an election which do not deprive any legal voter of the elective franchise, and from which no injury results to anyone, do not warrant the rejection of the official returns of a precinct, although such irregularities may include a failure to strictly comply with certain statutory regulations, such as, for example, the failure to provide a guard rail. Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932) (decided under former law).

1-5-502. Ballot boxes for nonmachine voting.

The governing body of each political subdivision using paper ballots or electronic vote counting equipment shall provide at least one ballot box for each polling location. The ballot boxes shall be strongly constructed so as to prevent tampering, with a small opening at the top and with a lid to be locked. The designated election official shall keep the ballot boxes and keys and deliver them, prior to the date on which the polling locations open, to the election judges.

Source: L. 92: Entire article R&RE, p. 716, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 586, § 25, effective April 30. **L. 99:** Entire section amended, p. 774, § 48, effective May 20. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 712, § 44, effective May 10.

Editor's note: This section is similar to former § 1-6-502 as it existed prior to 1992.

Cross references: (1) For delivery of election returns, ballot boxes, and other election papers, see § 1-7-701.

(2) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-503. Arrangement of voting equipment or voting booths and ballot boxes.

The voting equipment or voting booths and the ballot box shall be situated in the polling location so as to be in plain view of the election officials and watchers. No person other than the election officials and those admitted for the purpose of voting are permitted within the immediate voting area, which is considered as within six feet of the voting equipment or voting booths and the ballot box, except by authority of the election judges or the designated election official, and then only when necessary to keep order and enforce the law.

Source: L. 92: Entire article R&RE, p. 717, § 8, effective January 1, 1993. **L. 2004:** Entire section amended, p. 1344, § 8, effective May 28. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 712, § 45, effective May 10.

Editor's note: This section is similar to former § 1-6-503 as it existed prior to 1992.

Cross references: (1) For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

(2) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-504. Instruction cards.

(1) The designated election official of each political subdivision shall furnish to the election judges a sufficient number of instruction cards for the guidance of eligible electors in preparing their ballots. The election judges shall post at least one of the cards in each polling location. The cards shall be printed in large, clear type and shall contain full instructions to the eligible electors as to what should be done:

(a) To obtain ballots for voting;

(b) To prepare the ballots for deposit in the ballot box;

(c) To obtain a new ballot in the place of one spoiled by accident or mistake;

(d) To obtain assistance in marking ballots; and

(e) To vote for a write-in candidate.

Source: L. 92: Entire article R&RE, p. 717, § 8, effective January 1, 1993. **L. 2013:** IP (1) amended, (HB 13-1303), ch. 185, p. 712, § 46, effective May 10.

Editor's note: This section is similar to former § 1-6-504 as it existed prior to 1992.

Cross references: In 2013, the introductory portion to subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-504.5. Items to be posted at polling locations.

(1) The following items shall be posted at each polling location:

(a) A polling location sign visible from the outside of the closest entrance to the polling location pursuant to section 1-5-106;

(b) A sign notifying persons outside and inside of the polling location that no electioneering is permitted within one hundred feet of the polling location pursuant to section 1-13-714;

(c) Instruction cards for the guidance of eligible electors pursuant to section 1-5-504;

(d) Sample ballots pursuant to section 1-5-413;

(e) An explanation of the procedures that govern the provision of voting assistance to electors with disabilities who require such assistance pursuant to section 1-7-111. The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., to prescribe the form of such explanation.

Source: L. 96: Entire section added, p. 1744, § 36, effective July 1. **L. 2000:** (1)(e) added, p. 1086, § 1, effective May 26. **L. 2013:** IP(1), (1)(a), and (1)(b) amended, (HB 13-1303), ch. 185, p. 713, § 47, effective May 10.

Cross references: In 2013, the introductory portion to subsection (1) and subsections (1)(a) and (1)(b) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-505. Election expenses to be paid by county - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 717, § 8, effective January 1, 1993. **L. 99:** Entire section amended, p. 1389, § 9, effective June 4. **L. 2000:** (1) amended, p. 655, § 1, effective August 2. **L. 2023:** (3) added by revision, (SB 23-276), ch. 399, pp. 2380, 2399 §§ 17, 57.

Editor's note: (1) Prior to its repeal, this section was similar to former § 1-6-505 as it existed prior to 1992.

(2) Subsection (3) provided for the repeal of this section, effective July 1, 2024. (See L. 2023, pp. 2380, 2399.)

Cross references: For payment of county expenses, see part 1 of article 25 of title 30.

ANNOTATION

Counties are required under subsection (1) of this section to assume the cost of providing drop-off boxes for mail-in ballots at every polling place on election day in compliance with § 1-8-113 (1)(a), notwithstanding that this increase in service may create additional costs to the county. Subsection (1) and statute requiring state reimbursement to counties for costs associated with an increased level of service, § 29-1-304.5 (1), are in irreconcilable conflict. However, subsection (1), which pertains only to election funding, is more specific than the other statute, which broadly applies its reimbursement requirement to most existing state programs. Although § 29-1-304.5 (1) was adopted after subsection (1), there is no manifest intent that it should prevail in a conflict with the other statute. Rather, the intent of the legislature was to prioritize citizens' access to free and fair elections over convenience or cost savings to counties. Thus, subsection (1) should prevail over § 29-1-304.5 (1), rendering § 29-1-304.5 (1) inapplicable to the requirement that counties provide drop-off boxes for mail-in ballots at every polling place on election day under § 1-8-113 (1)(a). Gessler v. Doty, 2012 COA 4, 272 P.3d 1131.

1-5-505.5. State reimbursement to counties for elections with state certified ballot content.

(1) (a) For any state primary, coordinated, general, congressional vacancy, special legislative, or recall election conducted after July 1, 2024, where the state certifies any ballot content, the state shall reimburse each county for forty-five percent of the costs that the county incurs in conducting the election, including the cost of printing and supplies. The remainder of the costs that the county incurs in conducting the election is a county charge, the payment of which is provided in the same manner as the payment of other expenses. The secretary of state may adopt rules for determining which costs are necessary and reasonable and therefore reimbursable by the state.

(b) For a coordinated election, the political subdivisions for which the county clerk and recorder will conduct a coordinated election shall enter into an agreement with the county clerk and recorder pursuant to section 1-7-116 (2) for a reasonable sharing of the county's costs of the coordinated election that are not reimbursed by the state pursuant to subsection (1)(a) of this section among the county and the political subdivisions.

(c) Presidential primary elections shall be funded pursuant to 24-21-104.5 (2).

(d) (I) For a county commissioner vacancy election held as part of an odd-year November election for which the state certifies any ballot content, the state shall reimburse each county for forty-five percent of the costs that the county incurs in conducting the coordinated election, which may include the vacancy election, according to subsections (1)(a) and (1)(b) of this section. The remainder of the costs that the county incurs in conducting the vacancy election is a county charge, the payment of which is provided in the same manner as the payment of other expenses. The secretary of state may adopt rules for determining which costs are necessary and reasonable and therefore reimbursable by the state.

(II) For a county commissioner vacancy election held as part of an odd-year November election for which the state does not certify any ballot content, the costs that the county incurs in conducting the vacancy election are county costs.

(e) For a major political party vacancy election, as described in section 1-12-203 (1.5), held as part of an odd-year coordinated election for which the state has not otherwise certified any statewide ballot content, the state shall reimburse each county in which the state has certified a major political party vacancy election for forty-five percent of the costs that the county incurs in conducting the coordinated election, as provided in subsection (1)(a) of this section.

(2) The general assembly shall make appropriations to the department of state from the department of state cash fund or from the general fund for the purpose of reimbursing counties as required by this section in conformity with section 24-21-104.5; except that for the 2024 general

election, the general assembly shall appropriate two million five hundred thousand dollars from the general fund to the department of state cash fund for the purpose of reimbursing counties as required by this section.

Source: L. 2000: Entire section added, p. 655, § 2, effective August 2. **L. 2006:** (3) amended, p. 2032, § 10, effective June 6. **L. 2012:** (3) amended, (HB 12-1143), ch. 231, p. 1014, § 1, effective May 29. **L. 2023:** Entire section R&RE, (SB 23-276), ch. 399, p. 2380, § 18, effective July 1, 2024. **L. 2025:** (1)(d) added, (HB 25-1319), ch. 272, p. 1404, § 2, effective May 28; (1)(e) added, (HB 25-1315), ch. 180, p. 770, § 3, effective August 6.

1-5-506. Election expenses in nonpartisan elections.

The cost of conducting a nonpartisan election, including the cost of printing and supplies, must be paid by the governing body calling the election.

Source: L. 92: Entire article R&RE, p. 717, § 8, effective January 1, 1993. **L. 93:** Entire section amended, p. 1413, § 54, effective July 1. **L. 2000:** Entire section amended, p. 1085, § 2, effective August 2. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 580, § 42, effective May 18.

1-5-507. County clerk and recorder to give estimate.

In any election called by a nonpartisan governing body where the county clerk and recorder will have responsibilities for the election, the county clerk and recorder shall give to the governing body estimates of the costs for conducting a coordinated election or a mail ballot election so that the governing body may choose the appropriate method of election.

Source: L. 92: Entire article R&RE, p. 717, § 8, effective January 1, 1993. **L. 93:** Entire section amended, p. 1413, § 55, effective July 1.

PART 6

AUTHORIZATION AND USE OF VOTING MACHINES AND ELECTRONIC VOTING SYSTEMS

1-5-600.3. Definitions.

As used in this part 6, unless the context otherwise requires:

(1) "Electromechanical voting system" shall include a paper-based voting system as defined in section 1-1-104 (23.5).

Source: L. 2025: Entire section added with relocations, (SB 25-275), ch. 377, p. 2028, § 3, effective August 6.

Editor's note: Subsection (1) is similar to former § 1-5-601 (2) as it existed prior to 2025.

1-5-601. Use of voting systems.

(1) In all elections held in this state, the votes may be cast, registered, recorded, and counted by means of an electronic or electromechanical voting system as provided in this part 6.

(2) Repealed.

Source: L. 92: Entire article R&RE, p. 718, § 8, effective January 1, 1993. **L. 2004:** Entire section amended, p. 1345, § 9, effective May 28. **L. 2009:** Entire section amended, (HB 09-1335), ch. 260, p. 1189, § 2, effective May 15. **L. 2025:** (2) repealed, (SB 25-275), ch. 377, p. 2109, § 336, effective August 6.

Editor's note: (1) This section is similar to former § 1-6-601 as it existed prior to 1992.

(2) Subsection (2) was relocated to § 1-5-600.3 in 2025.

Cross references: For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-601.5. Compliance with federal requirements.

(1) All voting systems and voting equipment offered for sale on or after May 28, 2004, must meet the voting systems standards that were promulgated in 2002 by the federal election commission. At the secretary of state's discretion, the secretary may require by rule that voting systems and voting equipment satisfy voting systems standards promulgated after January 1, 2008, by the federal election assistance commission as long as such standards meet or exceed those promulgated in 2002 by the federal election commission.

(2) A voting system or voting equipment offered for sale or lease for use in an election using instant runoff voting must meet the minimum standards and specifications developed by the secretary of state in accordance with section 1-5-616 (1.5). If standards related to instant runoff voting are promulgated by the federal election assistance commission, the secretary of state may, at the secretary of state's discretion, require by rule that a voting system or voting equipment used to conduct an election using instant runoff voting meet the federal standards, so long as the federal standards meet or exceed those promulgated by the secretary of state.

Source: L. 2004: Entire section added, p. 1346, § 14, effective May 28. **L. 2009:** Entire section amended, (HB 09-1335), ch. 260, p. 1190, § 3, effective May 15. **L. 2021:** Entire section amended, (HB 21-1071), ch. 367, p. 2415, § 2, effective July 1, 2022. **L. 2023:** Entire section amended, (SB 23-276), ch. 399, p. 2381, § 19, effective June 6.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-602. Requirements for voting machines - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 718, § 8, effective January 1, 1993. **L. 93:** (1)(f) and (1)(k) amended, p. 1414, § 56, effective July 1. **L. 95:** (1)(e) amended, p. 862, § 119, effective July 1. **L. 2004:** (2) added by revision, pp. 1361, 1213, §§ 30, 31, 108.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

1-5-603. Adoption and payment for voting machines. (Repealed)

Source: L. 92: Entire article R&RE, p. 719, § 8, effective January 1, 1993. **L. 2007:** Entire section amended, p. 2017, § 1, effective June 1. **L. 2021:** Entire section amended, (HB 21-1071), ch. 367, p. 2417, § 5, effective July 1, 2022. **L. 2022:** (2)(b) amended, (SB 22-153), ch. 322, p. 2279, § 8, effective June 2. **L. 2026:** Entire section repealed, (HB 26-1113), ch. 267, p. 1502, § 39, effective June 1.

Editor's note: Prior to its repeal, this section was similar to former § 1-6-603 as it existed prior to 1992.

1-5-604. Experimental use - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 720, § 8, effective January 1, 1993. **L. 2004:** (2) added by revision, p. 1361, 1213, §§ 30, 31, 108.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

1-5-605. Other laws apply - paper ballots permitted for absentee voting - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 720, § 8, effective January 1, 1993. **L. 2004:** (2) added by revision, pp. 1361, 1213, §§ 30, 31, 108.

Editor's note: Subsection (2) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

1-5-605.5. Custody of voting system.

The county clerk and recorder or designated election official shall be the custodian of the voting system in a political subdivision and may appoint deputies necessary to prepare and supervise the voting system prior to and during elections.

Source: L. 2004: Entire section added, p. 1346, § 14, effective May 28.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-605.7. Mechanical lever voting machines - prohibited.

(1) No voting system using mechanical lever voting machines may be used in any election in this state.

(2) Repealed.

Source: L. 2004: Entire section added, p. 1345, § 12, effective May 28. **L. 2010:** (2) repealed, (HB 10-1116), ch. 194, p. 833, § 12, effective May 5.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-606. Election officials and employees not to have interest in voting equipment or devices.

No election official or employee of an election official having duties or responsibilities in connection with the conduct of any election shall have any financial or proprietary interest, either directly or indirectly, in the manufacture, sale, maintenance, servicing, repair, or transportation of voting equipment. This section shall not apply to any designated election official or employee of a designated election official participating in a coordinated election who has no independent decision-making responsibility concerning the selection of voting equipment by the county clerk and recorder or whose interest derives solely from ownership of shares in a mutual or pension fund.

Source: L. 92: Entire article R&RE, p. 720, § 8, effective January 1, 1993. **L. 96:** Entire section amended, p. 1744, § 37, effective July 1. **L. 2004:** Entire section amended, p. 1345, § 10, effective May 28.

Editor's note: This section is similar to former § 1-6-606 as it existed prior to 1992.

Cross references: For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-607. Elected officials not to handle voting equipment or devices.

(1) In any political subdivision having a population of one hundred thousand or more, it is unlawful for any elected official or candidate for elective office to prepare, maintain, or repair any voting equipment or device that is to be used or is used in any election. The provisions of this section shall not be construed as prohibiting an elected official from directing employees or other persons who are not elected officials to prepare, maintain, repair, or otherwise handle any voting equipment or devices as required for an election or an election-related purpose.

(1.5) In any political subdivision having a population of one hundred thousand or more, it is unlawful for any elected official, any candidate for elective office, or the secretary of state to have key card access to a room with components of a voting system, or to be present in a room with components of a voting system without being accompanied by one or more individuals with authorized access. This subsection (1.5) does not apply when voting system components are deployed for use or stored at a voting service and polling center.

(2) The provisions of this section shall not be construed to prohibit any elected official or candidate for elective office from voting at any election.

(3) The provisions of this section shall not apply to precinct committeepersons who act as election judges.

(4) Repealed.

Source: L. 92: Entire article R&RE, p. 720, § 8, effective January 1, 1993. **L. 96:** (4) repealed, p. 1775, § 84, effective July 1. **L. 2004:** (1) amended, p. 1345, § 11, effective May 28. **L. 2022:** (1) amended and (1.5) added, (SB 22-153), ch. 322, p. 2280, § 9, effective June 2.

Editor's note: This section is similar to former § 1-6-607 as it existed prior to 1992.

Cross references: (1) For penalties for election offenses, see § 1-13-111.

(2) For the legislative declaration contained in the 2004 act amending subsection (1), see section 1 of chapter 334, Session Laws of Colorado 2004.

(3) For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-5-608. Requirements - electronic voting systems - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 721, § 8, effective January 1, 1993. **L. 94:** (1)(e) amended, p. 1162, § 31, effective July 1. **L. 95:** (1)(c) amended, p. 862, § 120, effective July 1. **L. 2004:** (3) added by revision, pp. 1361, 1213, §§ 30, 31, 108.

Editor's note: Subsection (3) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

1-5-608.2. Punch card voting systems - prohibited.

(1) No punch card electronic voting system or other voting system in which the elector uses a device to pierce the ballot may be used in any election in this state.

(2) Repealed.

Source: L. 2004: Entire section added, p. 1345, § 12, effective May 28. **L. 2010:** (2) repealed, (HB 10-1116), ch. 194, p. 833, § 13, effective May 5.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-608.5. Electromechanical voting systems - testing by federally accredited labs - certification and approval of purchasing of electromechanical voting systems by secretary of state - conditions of use by secretary of state - testing.

(1) A federally accredited laboratory may test, approve, and qualify electronic and electromechanical voting systems for sale and use in the state of Colorado.

(2) (Deleted by amendment, L. 2009, (HB 09-1335), ch. 260, p. 1190, § 4, effective May 15, 2009.)

(3) (a) If the electronic and electromechanical voting systems tested pursuant to this section satisfy the requirements of this part 6, the secretary of state shall certify such systems and approve the purchase, installation, and use of such systems by political subdivisions and establish standards for certification.

(b) The secretary of state may promulgate conditions of use in connection with the use by political subdivisions of electromechanical voting systems as may be appropriate.

(c) In undertaking the certification required by this section, the secretary of state may consider either procedures used or adopted by county clerk and recorders or best practices recommended by equipment vendors.

(3.5) (a) On and after December 31, 2022, if an electronic and electromechanical voting system tested pursuant to this section satisfies the requirements of this part 6 related to the use of the system in an election using instant runoff voting and the rules established by the secretary of state pursuant to section 1-5-616 (1.5), the secretary of state shall certify such system and approve the purchase, installation, and use of such system by political subdivisions in an election using instant runoff voting.

(b) The secretary of state may promulgate conditions of use in connection with the use by political subdivisions of an electromechanical voting system in an election using instant runoff voting as may be appropriate.

(c) In undertaking the certification required by this section, the secretary of state may consider procedures used or adopted by county clerk and recorders or best practices recommended by equipment vendors.

(4) In undertaking the certification required by this section, the secretary of state may request a federally accredited laboratory to undertake the testing of an electronic or electromechanical voting system or may use and rely upon the testing of an electronic or electromechanical voting system already performed by another state or a federally accredited laboratory upon satisfaction of the following conditions:

(a) The secretary of state has complete access to any documentation, data, reports, or similar information on which the other state or laboratory relied in performing its testing and will make such information available to the public subject to any redaction required by law; and

(b) The secretary of state makes written findings and certifies that he or she reviewed the information specified in paragraph (a) of this subsection (4) and determines that the testing:

(I) Was conducted in accordance with appropriate engineering standards in use as of the time the testing is undertaken; and

(II) Satisfies the requirements of sections 1-5-615 and 1-5-616 and all rules promulgated thereunder.

(5) In undertaking the certification required by this section, the secretary of state may conduct joint testing with an agency of another state or with a federally accredited laboratory.

Source: L. 93: Entire section added, p. 1414, § 57, effective July 1. **L. 2004:** Entire section amended, p. 1346, § 13, effective May 28. **L. 2009:** Entire section amended, (HB 09-1335), ch. 260, p. 1190, § 4, effective May 15. **L. 2021:** (3.5) added, (HB 21-1071), ch. 367, p. 2416, § 3, effective July 1, 2022. **L. 2023:** (3)(b) and (3.5)(b) amended, (SB 23-276), ch. 399, p. 2381, § 20, effective June 6.

Cross references: For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-609. Acquisition and use authorized - repeal. (Repealed)

Source: L. 92: Entire article R&RE, p. 721, § 8, effective January 1, 1993. **L. 2004:** (3) added by revision, pp. 1361, 1213, §§ 30, 31, 108.

Editor's note: Subsection (3) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, pp. 1361, 1213.)

1-5-610. Preparation for use - electromechanical voting.

(1) Prior to an election in which an electromechanical voting system is to be used, the designated election official shall have all system components prepared for voting and shall

inspect and determine that each component is in proper working order. The designated election official shall cause a sufficient number of system components to be delivered to each voter service and polling center in which an electromechanical voting system is to be used.

(2) The designated election official shall supply each voter service and polling center in which electromechanical voting systems are to be used with a sufficient number of ballots, ballot cards, sample ballots, and ballot boxes, and with such other supplies and forms as may be required.

Source: L. 92: Entire article R&RE, p. 722, § 8, effective January 1, 1993. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3248, § 16, effective June 6.

Editor's note: This section is similar to former § 1-6-610 as it existed prior to 1992.

1-5-611. Requirements - nonpunch card electronic voting systems.

(1) No nonpunch card electronic voting system shall be purchased, leased, or used unless it fulfills the following requirements:

(a) It provides for voting in secrecy;

(b) It permits each elector to write in the names of eligible candidates not appearing on the printed ballot, to vote for as many candidates for an office as there are vacancies for which the elector is entitled to vote, and to vote for or against any ballot issue upon which the elector is entitled to vote;

(c) It rejects any vote for an office or on a ballot issue if the number of votes exceeds the number the elector is entitled to cast; except that, if the voting system is certified for use in an election using instant runoff voting, the voting system must allow the elector to rank multiple candidates in such an election in accordance with section 1-7-1003 and rules adopted by the secretary of state;

(d) It permits each elector, other than at a primary election, to vote for the candidates of one or more parties and for unaffiliated candidates;

(e) It prevents the elector from voting for the same candidates more than once for the same office; and

(f) If the system uses a voting device:

(I) It is suitably designed, of durable construction, and capable of being used safely, efficiently, and accurately in the conduct of elections and the tabulation of votes;

(II) It permits the names of candidates and the text of issues to be printed on pages which are securely attached to the voting device, the pages to be securely locked in a metal frame or sealed to prevent tampering;

(III) It contains a protective counter with a register which cannot be reset, which shall register the cumulative total number of movements of the operating mechanism; and

(IV) It is capable of providing printouts of vote totals by office and candidate or by ballot issue, including a numeric-only printout to be used for testing as provided in section 1-7-509.

Source: L. 92: Entire article R&RE, p. 722, § 8, effective January 1, 1993. **L. 95:** (1)(d) amended, p. 862, § 121, effective July 1. **L. 2005:** (1)(f)(IV) amended, p. 1425, § 55, effective June 6; (1)(f)(IV) amended, p. 1460, § 55, effective June 6. **L. 2021:** (1)(c) amended, (HB 21-1071), ch. 367, p. 2416, § 4, effective July 1, 2022.

Editor's note: This section is similar to former § 1-6-611 as it existed prior to 1992.

1-5-612. Use of electronic and electromechanical voting systems.

(1) (a) The county clerk and recorder for a county with one thousand or more active electors as of the date of the last general election must, upon consultation with the board of county commissioners, acquire and adopt an electronic or electromechanical voting system, including any upgrade in hardware, firmware, or software, for use in all elections conducted by the county under the "Uniform Election Code of 1992".

(b) Repealed.

(c) The county clerk and recorder shall oversee the selection, supervision, and management of all personnel, including contractors and vendors, engaged in the acquisition, implementation, operation, and maintenance of the electronic or electromechanical voting system, subject to the rules of the secretary of state.

(2) An electronic or electromechanical voting system may be used only if the system has been certified by the secretary of state in accordance with this part 6.

(3) (a) The secretary of state shall, if possible, negotiate a single annual statewide license with the voting system provider of a certified voting system for use in an election using instant runoff voting pursuant to section 1-5-617 (1.5) to allow each county that uses the voting system to conduct elections using instant runoff voting. The secretary of state shall pay for such annual statewide license from the department of state cash fund created in section 24-21-104 (3)(b).

(b) Each county that uses a voting system in an instant runoff voting election pursuant to a statewide license paid for pursuant to subsection (3)(a) of this section shall reimburse the department of state for its proportionate share of the cost of the annual statewide license for the year in which the election is held. The secretary of state shall provide an invoice to each county that uses the voting system for its proportionate share of the cost of the statewide license based on the number of registered active electors in all participating municipalities in that county compared to the total number of registered active electors in all participating municipalities in the state, as determined by the secretary of state.

Source: L. 2004: Entire section added, p. 1347, § 14, effective May 28. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 713, § 48, effective May 10. **L. 2022:** (1) amended, (SB 22-153), ch. 322, p. 2280, § 10, effective June 2. **L. 2026:** (1)(a) amended, (1)(b) repealed, and (1)(c) and (3) added, (HB 26-1113), ch. 267, p. 1502, § 40, effective June 1.

Cross references: (1) For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

(2) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-5-613. Purchase and sale of voting equipment.

(1) The secretary of state shall adopt uniform rules in accordance with article 4 of title 24, C.R.S., for the purchase and sale of voting equipment in the state.

(2) The governing body or designated election official of a political subdivision may purchase a voting system only if the voting system has been certified for use in this state by the secretary of state in accordance with this part 6.

(3) The governing body or designated election official of a political subdivision shall notify the secretary of state before purchasing or selling voting equipment. The secretary of state shall attempt to coordinate the sale of excess or outmoded equipment by one political subdivision with purchases of necessary equipment by other political subdivisions.

(4) The secretary of state shall provide information at the request of the governing bodies of the various political subdivisions of the state on the availability and sources of new and used voting equipment.

Source: L. 2004: Entire section added, p. 1347, § 14, effective May 28. **L. 2016:** (2) amended, (SB 16-142), ch. 173, p. 580, § 43, effective May 18.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-614. Certification of electronic and electromechanical voting systems - standards. (Repealed)

Source: L. 2004: Entire section added, p. 1347, § 14, effective May 28. **L. 2009:** Entire section repealed, (HB 09-1335), ch. 260, p. 1191, § 5, effective May 15.

1-5-615. Electromechanical voting systems - requirements.

(1) The secretary of state shall not certify any electromechanical voting system unless such system:

(a) Provides for voting in secrecy;

(b) Permits each elector to vote for all offices for which the elector is lawfully entitled to vote and no others, to vote for as many candidates for an office as the elector is entitled to vote for, and to vote for or against any ballot question or ballot issue on which the elector is entitled to vote;

(c) Permits each elector to verify his or her votes privately and independently before the ballot is cast;

(d) Permits each elector privately and independently to change the ballot or correct any error before the ballot is cast, including by voting a replacement ballot if the elector is otherwise unable to change the ballot or correct an error;

(e) If the elector overvotes:

(I) Notifies the elector before the ballot is cast that the elector has overvoted;

(II) Notifies the elector before the vote is cast that an overvote for any office, ballot question, or ballot issue will not be counted; and

(III) Gives the elector the opportunity to correct the ballot before the ballot is cast;

(f) Does not record a vote for any office, ballot question, or ballot issue that is overvoted on a ballot cast by an elector;

(g) For electronic and electromechanical voting systems using ballot cards, accepts an overvoted or undervoted ballot if the elector chooses to cast the ballot, but it does not record a vote for any office, ballot question, or ballot issue that has been overvoted;

(h) In a primary election, permits each elector to vote only for a candidate seeking nomination by the political party with which the elector is affiliated;

(i) In a presidential election, permits each elector to vote by a single operation for all presidential electors of a pair of candidates for president and vice president;

(j) Does not use a device for the piercing of ballots by the elector;

(k) Provides a method for write-in voting;

(l) Counts votes correctly;

(m) Can tabulate the total number of votes for each candidate for each office and the total number of votes for and against each ballot question and ballot issue; and

(n) and (o) Repealed.

(p) Saves and produces the records necessary to audit the operation of the electronic or electromechanical voting system, including a permanent paper record with a manual audit capacity.

(1.5) The secretary of state shall not certify any electronic or electromechanical voting system for use in an election using instant runoff voting unless, in addition to meeting the requirements of subsection (1) of this section, the system meets the requirements and performs the functions required by section 1-7-1003.

(2) The permanent paper record produced by the electronic or electromechanical voting system shall be available as an official record for any recount conducted for any election in which the system was used.

Source: L. 2004: Entire section added, p. 1347, § 14, effective May 28. **L. 2013:** IP(1), (1)(m), (1)(n), and (1)(o) amended, (HB 13-1303), ch. 185, p. 713, § 49, effective May 10. **L. 2021:** (1.5) added, (HB 21-1071), ch. 367, p. 2417, § 6, effective July 1, 2022. **L. 2023:** IP(1)

and (1)(m) amended and (1)(n) and (1)(o) repealed, (SB 23-276), ch. 399, p. 2382, § 21, effective June 6.

Cross references: (1) For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

(2) In 2013, the introductory portion to subsection (1) and subsections (1)(m), (1)(n), and (1)(o) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-616. Electromechanical voting systems - standards - procedures.

(1) The secretary of state shall adopt rules in accordance with article 4 of title 24, C.R.S., that establish minimum standards for electronic and electromechanical voting systems regarding:

(a) Functional requirements;

(b) Performance levels;

(c) Physical and design characteristics;

(d) Documentation requirements;

(e) Evaluation criteria;

(f) Audit capacity;

(g) Security requirements;

(h) Telecommunications requirements; and

(i) Accessibility.

(1.5) On or before December 31, 2022, the rules adopted by the secretary of state pursuant to subsection (1) of this section must include the minimum system requirements and specifications for electronic and electromechanical voting systems used to conduct elections using instant runoff voting.

(2) The secretary of state may review the rules adopted pursuant to subsections (1) and (1.5) of this section governing standards for certification of electronic or electromechanical voting systems to determine the adequacy and effectiveness of the rules in assuring that elections achieve the standards established by section 1-1-103.

(3) The secretary of state shall adopt rules in accordance with article 4 of title 24, C.R.S., to achieve the standards established by section 1-1-103 for the procedures of voting, including

write-in voting, and of counting, tabulating, and recording votes by electronic or electromechanical voting systems used in this state.

(4) The secretary of state shall adapt the standards for certification of electronic or electromechanical voting systems established by rule pursuant to subsections (1) and (1.5) of this section to ensure that new technologies that meet the requirements for such systems are certified in a timely manner and available for selection by political subdivisions and meet user standards.

(5) (a) Each designated election official shall establish written procedures to ensure the accuracy and security of voting in the political subdivision and submit the procedures to the secretary of state for review prior to each election. The secretary of state shall notify the designated election official of the approval or disapproval of the procedures no later than fifteen days after the secretary of state receives the submission.

(b) Each designated election official shall submit the security procedures to the secretary of state no less than sixty days before the election in which the procedures will be used. The secretary of state shall notify the designated election official of the approval or disapproval of said revisions no later than fifteen days after the secretary of state receives the submission.

(6) A county may not create, permit any person to create, or disclose to any person an image of the hard drive of any voting system component without the express written permission of the department of state.

Source: L. 2004: Entire section added, p. 1349, § 14, effective May 28. **L. 2006:** (5)(a) amended, p. 2032, § 11, effective June 6. **L. 2021:** (1.5) added and (2) and (4) amended, (HB 21-1071), ch. 367, p. 2417, § 7, effective July 1, 2022. **L. 2022:** (6) added, (SB 22-153), ch. 322, p. 2280, § 11, effective June 2. **L. 2023:** (5) amended, (SB 23-276), ch. 399, p. 2382, § 22, effective June 6.

Cross references: (1) For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

(2) For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-5-617. Examination - testing - certification.

(1) (a) After an electronic or electromechanical voting system is tested in accordance with section 1-5-608.5, the voting system provider may submit the system to the secretary of state for certification.

(b) The secretary of state shall examine each electronic or electromechanical voting system submitted for certification and determine whether the system complies with the requirements of section 1-5-615 and the standards established under section 1-5-616.

(c) The secretary of state shall decide whether to certify an electronic or electromechanical voting system within one hundred twenty days after the system is submitted for certification.

(1.5) (a) On and after December 31, 2022, after an electronic or electromechanical voting system is tested in accordance with section 1-5-608.5 (3.5) for use in an election using instant runoff voting, the voting system provider may submit the system to the secretary of state for certification for use in an election using instant runoff voting.

(b) The secretary of state shall examine each electronic or electromechanical voting system submitted for certification and determine whether the system complies with the requirements of section 1-5-615 and the standards established under section 1-5-616 for use in an election using instant runoff voting.

(c) The secretary of state shall decide whether to certify an electronic or electromechanical voting system for use in an election using instant runoff voting within one hundred twenty days after the system is submitted for certification.

(2) The secretary of state shall appoint one or more experts in the fields of data processing, mechanical engineering, or public administration to assist in the examination and testing of electronic or electromechanical voting systems submitted for certification and to produce a written report on each system.

(3) Neither the secretary of state nor any examiner shall have any pecuniary interest in any voting equipment.

(4) Within thirty days after deciding to certify an electromechanical voting system, the secretary of state shall make a report on the system containing a description of the system and its operation. The secretary of state shall send a notice of certification and a copy of the report to the voting system provider that submitted the system for certification. The secretary of state shall notify the governing bodies of the political subdivisions of the state of the certification and make the notice of certification and report available to them upon request.

(5) The designated election official of a political subdivision that plans to use an electronic or electromechanical voting system that has been certified in accordance with this section shall apply to the secretary of state for approval of the purchase, installation, and use of the system. The secretary of state shall prescribe the form and procedure of the application by rule adopted in accordance with article 4 of title 24, C.R.S.

(6) The secretary of state may provide technical assistance to designated election officials on issues related to the certification of the purchase, installation, and use of electronic and electromechanical voting systems by a political subdivision.

Source: L. 2004: Entire section added, p. 1350, § 14, effective May 28. **L. 2005:** (5) amended, p. 759, § 3, effective June 1. **L. 2009:** (1)(c) amended, (HB 09-1335), ch. 260, p. 1191, § 6, effective May 15. **L. 2021:** (1.5) added, (HB 21-1071), ch. 367, p. 2418, § 8, effective July 1, 2022. **L. 2024:** (4) amended, (SB 24-210), ch. 468, p. 3248, § 17, effective June 6.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-618. Modification of electronic and electromechanical voting systems - definition.

(1) After an electronic or electromechanical voting system has been certified by the secretary of state, a political subdivision may not adopt any modification of the system until the modification is certified or approved in accordance with the provisions of subsection (1.5) of this section by the secretary of state. A person desiring approval of a modification shall submit a written application for approval to the secretary of state.

(1.5) Upon receipt of the written application for approval in accordance with subsection (1) of this section, the secretary of state shall undertake a preliminary examination of the proposed modification. In connection with such preliminary review, the secretary shall determine if the proposed modification may cause adverse effects on the security or accuracy of elections. The secretary shall make the determination within forty-five days after receiving the request. If the secretary, upon completion of his or her preliminary review of the request, determines that the proposed modification will cause significant adverse effects, the modification shall be subject to further review under the provisions of subsection (2) of this section. If the secretary determines, upon completion of his or her preliminary review, that the proposed modification causes no adverse effects, the secretary shall approve the modification. If the secretary determines, upon completion of his or her preliminary review, that the proposed modification causes possible adverse effects, the modification shall be subject to further review under the provisions of subsection (4) of this section. Following such additional review, if the secretary determines that any adverse effects of the proposed modification are insignificant, the secretary shall approve the modification. If, however, following such additional review, the secretary determines that the adverse effects of the modification are significant, the modification shall be subject to further review under the provisions of subsection (2) of this section.

(2) The requirements for approval of a modified electronic or electromechanical voting system are the same as those prescribed by this part 6 for the initial certification of the system.

(3) The secretary of state shall approve the modified electronic or electromechanical voting system by written order if the modified system satisfies the applicable requirements for certification.

(4) If the secretary of state does not approve the modified design, the secretary of state shall by written order:

(a) Invite the applicant to submit additional information in support of the application, submit the modified electronic or electromechanical voting system itself, or both; or

(b) Require an examination of the modified electronic or electromechanical voting system by independent examiners.

(5) After examining the additional information, the modified electronic or electromechanical voting system, or the report of an independent examiner submitted pursuant to subsection (4) of this section, the secretary of state shall approve the modified system by written order if the system satisfies the applicable requirements for certification.

(6) If a modification to a certified electronic or electromechanical voting system does not satisfy the applicable requirements for certification, the secretary of state shall suspend the sale of the system in this state until the system satisfies the requirements for certification.

(7) For purposes of this section, "modification" means a revision or a new release of an electronic or electromechanical voting system.

Source: L. 2004: Entire section added, p. 1351, § 14, effective May 28. **L. 2009:** (1) amended and (1.5) added, (HB 09-1335), ch. 260, p. 1192, § 7, effective May 15.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-619. Temporary use of electronic and electromechanical voting systems.

(1) After an electronic or electromechanical voting system has been tested in accordance with section 1-5-608.5 but has not yet been certified by the secretary of state, a voting system provider or designated election official may apply to the secretary of state for temporary approval of the system.

(2) The secretary of state shall, by rule adopted in accordance with article 4 of title 24, C.R.S., establish standards and procedures for temporary approval of electronic and electromechanical voting systems.

(3) An electronic or electromechanical voting system may be temporarily approved for a total of no more than one year, and the secretary of state may revoke such approval at any time. Temporary approval of a system shall not supersede the certification requirements of this part 6.

(4) A temporarily approved electronic or electromechanical voting system may not be used in any election without the written authorization of the secretary of state.

(5) A designated election official may enter into a contract to rent or lease a temporarily approved electronic or electromechanical voting system for a specific election with the approval of the secretary of state. A political subdivision shall not acquire title to a temporarily approved system.

(6) The use of a temporarily approved electronic or electromechanical voting system shall be valid for all purposes.

Source: L. 2004: Entire section added, p. 1351, § 14, effective May 28.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-620. Electronic or electromechanical voting system information - software. (Repealed)

Source: L. 2004: Entire section added, p. 1352, § 14, effective May 28. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3248, § 18, effective June 6.

1-5-621. Compliance - definitions.

(1) Notwithstanding any provision of law to the contrary, upon filing of a complaint, the secretary of state shall investigate the complaint and may review or inspect the electronic or electromechanical voting system of a political subdivision at any time, including election day, to determine whether the system complies with the applicable requirements of this part 6 or deviates from a certified system.

(2) A voting system provider or a designated election official using an electronic or electromechanical voting system shall give notice to the secretary of state within twenty-four hours of a malfunction of its system in preparation for or during an election. The notice may be

verbal or in writing. For purposes of this section, "malfunction" means a deviation from a correct value in a voting system.

(3) Upon receipt of the notice sent pursuant to subsection (2) of this section, the secretary of state shall determine whether further information on the malfunction is required. At the written or verbal request of the secretary of state, the voting system provider or designated election official shall submit a report to the secretary of state's office describing the reprogramming or other actions necessary to correct the malfunction of the electronic or electromechanical voting system. The report shall indicate whether permanent changes are necessary to prevent similar malfunctions in the future. The report shall be submitted within thirty days after the date of the request by the secretary of state. Failure to submit the report within the required period shall be grounds to decertify the system. A copy of the report shall be attached to the most recent certification of the system on file in the secretary of state's office. The secretary of state shall distribute a copy of the report to all political subdivisions that use the system.

(4) If the secretary of state determines after inspecting an electronic or electromechanical voting system or reviewing the report submitted pursuant to subsection (3) of this section that the system does not comply with applicable standards or deviates from a certified system, the secretary shall by written order:

(a) Specify actions to remedy the defect in the electronic or electromechanical voting system and direct the designated election official or voting system provider, as appropriate, to perform such actions;

(b) Prohibit the use of the electronic or electromechanical voting system or any part of the system by a political subdivision that adopted the system for use in an election until the actions to remedy the defect are performed and approved by the secretary of state;

(c) Limit the use of the electronic or electromechanical voting system or any part of the system to circumstances or conditions stated in the order; or

(d) Decertify the electronic or electromechanical voting system.

(5) Upon decertification of an electronic or electromechanical voting system, the secretary of state shall notify all political subdivisions that use the system and the providers of the system that the certification of the system for use and sale in this state is withdrawn. The notice shall be in writing and shall indicate the reasons for the decertification of the system and the effective date of the decertification.

(6) Within thirty days after receiving notice from the secretary of state of the decertification of an electronic or electromechanical voting system, a political subdivision or provider of a voting system that is decertified may request in writing that the secretary of state reconsider its decision to decertify the electronic or electromechanical voting system. Upon receipt of the request, the secretary of state shall hold a public hearing to reconsider the decision to decertify

the system. Any interested party may submit testimony or documentation in support of or in opposition to the decision to decertify the system. Following the hearing, the secretary of state may affirm or reverse the decision.

(7) The secretary of state shall amend or rescind an order issued under this section if the secretary of state determines that the electronic or electromechanical voting system has been modified to comply with applicable standards or no longer deviates from the certified system.

Source: L. 2004: Entire section added, p. 1352, § 14, effective May 28.

Cross references: For the legislative declaration contained in the 2004 act enacting this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-622. Special rules applicable to 2007 retesting of voting systems - repeal. (Repealed)

Source: L. 2008: Entire section added, p. 3, § 1, effective February 11.

Editor's note: Subsection (4) provided for the repeal of this section, effective July 1, 2009. (See L. 2008, p. 3.)

1-5-623. Purchase of new electromechanical voting systems - approval of secretary of state - rules.

(1) and (2) Repealed.

(3) (a) No political subdivision may purchase a new electromechanical voting system or any related component of such system without obtaining the prior approval of the secretary of state for such purchase.

(b) Subject to the requirements of subsection (3)(a) of this section, if a political subdivision desires to purchase a new electromechanical voting system or any related component of an electromechanical voting system, the political subdivision shall submit a written application to the secretary of state for approval of the purchase. The political subdivision shall apply by means of any forms or procedures established by the secretary. The secretary shall approve or deny the application in writing within thirty days of receiving the application.

(4) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to specify permissible conditions of use governing electronic voting devices or systems or related components of such devices or systems in accordance with the requirements of this part 6.

Source: L. 2009: Entire section added, (HB 09-1335), ch. 260, p. 1192, § 8, effective May 15. **L. 2024:** (1) and (2) repealed and (3) amended, (SB 24-210), ch. 468, p. 3248, § 19, effective June 6.

PART 7

ACCESSIBILITY FOR ELECTORS WITH DISABILITIES

Cross references: For the legislative declaration contained in the 2004 act enacting this part 7, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-5-701. Legislative declaration - federal funds.

(1) The general assembly hereby finds and declares that:

(a) It is the intent of the general assembly that all state requirements should meet or exceed the minimum federal requirements for accessibility of voting systems and polling locations to persons with disabilities.

(b) All state laws, rules, standards, and codes governing voting systems and polling location accessibility shall be maintained to ensure that the state is eligible for federal funds.

Source: L. 2004: Entire part added, p. 1354, § 15, effective May 28. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 713, § 50, effective May 10.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-702. Definitions.

As used in this part 7, unless the context otherwise requires:

(1) "Accessible voter interface device" means a device that communicates voting instructions and the information on the ballot to an elector and allows the elector to select and vote for candidates, ballot questions, and ballot issues in accordance with the standards in section 1-5-704. A ballot marking device may be considered an accessible voter interface device.

(2) "Alternative formats" has the same meaning ascribed in the federal "Americans with Disabilities Act of 1990", as amended, (Pub.L. 101-336), codified at 42 U.S.C. sec. 12101 et seq., including specifically the technical assistance manuals promulgated thereunder.

(2.5) "Ballot marking device" means a device that allows an elector to mark a ballot card used in an electromechanical voting system and that meets the standards in section 1-5-704 (1)(o).

(2.7) "Covered entity" means:

(a) An adult day care facility, as defined in section 25.5-6-303 (1);

(b) An alternative care facility, as defined in section 25.5-6-303 (3);

(c) An assisted living residence, as defined in section 25-27-102 (1.3);

(d) A community residential home, as defined in section 25.5-10-202 (5);

(e) An intermediate nursing facility for persons with intellectual and developmental disabilities, as defined in section 25.5-4-103 (9);

(f) A nursing facility, as defined in section 25.5-4-103 (14); or

(g) A state-run psychiatric hospital or mental health institute operated by the department of human services created in section 26-1-105.

(3) "Tactile input device" means a device such as a keyboard with which an elector provides information to a voting system by touching the device.

Source: L. 2004: Entire part added, p. 1354, § 15, effective May 28. **L. 2007:** (1) amended and (2.5) added, p. 1975, § 18, effective August 3. **L. 2025:** (2.7) added, (SB 25-001), ch. 178, p. 745, § 5, effective August 6.

1-5-703. Accessibility of polling locations to persons with disabilities.

(1) Each polling location shall comply fully with the current "ADA standards for accessible design" set forth in 28 CFR 36 and promulgated in accordance with the federal "Americans with Disabilities Act of 1990", as amended, 42 U.S.C. sec. 12101 et seq., and no barrier shall impede the path of electors with disabilities to the voting booth.

(2) Emergency polling locations and in-person voting at county jails or detention centers are exempt from compliance with this section.

(3) Except as otherwise provided in subsection (2) of this section, a designated election official shall only select as polling locations such sites that meet the standards of accessibility set forth in subsection (1) of this section.

(4) Before selecting polling locations, the designated election official shall submit to the secretary of state an accessibility survey in the form prescribed by the secretary of state identifying the criteria for selecting accessible polling locations and applying the criteria to proposed polling locations.

Source: L. 2004: Entire part added, p. 1354, § 15, effective May 28. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 714, § 51, effective May 10. **L. 2024:** (2) amended, (SB 24-072), ch. 298, p. 2031, § 2, effective May 31.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-704. Standards for accessible voting systems.

(1) Notwithstanding any other provision of this article 5, each voting system certified by the secretary of state for use in local, state, and federal elections must have the capability to accept accessible voter interface devices in the voting system configuration to allow the voting system to meet the following minimum standards:

(a) The voting system shall provide a tactile input or audio input device, or both.

(b) The voting system shall provide a method by which electors can confirm any tactile or audio input by audio output using synthetic or recorded human speech.

(c) Any operable controls on the input device that are needed by electors who are visually impaired shall be indicated in braille or otherwise discernible tactilely without actuating the keys.

(d) Devices providing audio and visual access shall be able to work both separately and simultaneously.

(e) If a nonaudio access approach is provided, the voting system may not require color perception. The voting system shall use black text or graphics, or both, on white background or white text or graphics, or both, on black background, unless the secretary of state approves other high-contrast color combinations that do not require color perception.

(f) Any voting system that requires any visual perception shall allow the font size as it appears to the voter to be set from a minimum of fourteen points to a maximum of twenty-four points before the voting system is delivered to the polling location.

(g) The voting system shall provide audio information, including any audio output using synthetic or recorded human speech or any auditory feedback tones that are important for the use of the audio approach, through at least one mode, by handset or headset, at high volume and shall provide incremental volume control with output amplification up to a level of at least ninety-seven decibel sound pressure level.

(h) For voice signals transmitted to the elector, the voting system shall have an adjustable audio volume that meets the requirements used in Colorado for certification of a voting system.

(i) If the voting system can exceed one hundred twenty decibel sound pressure level, a mechanism shall be included to reset the volume automatically to the voting system's default volume level after every use, such as when the handset is replaced, but not before. Universal precautions in the use and sharing of headsets should be followed.

(j) If sound cues and audible information such as "beeps" are used, simultaneous corresponding visual cues and information shall be provided.

(k) Controls and mechanisms shall be operable with one hand, including with a closed fist, and operable without tight grasping, pinching, or twisting of the wrist.

(l) The force required to operate or activate the controls may not exceed five pounds of force.

(m) Voting booths shall have voting controls at a minimum height of thirty-six inches above the finished floor with a minimum knee clearance of twenty-seven inches high, thirty inches wide, and nineteen inches deep, or the accessible voter interface devices shall be designed so as to allow their use on top of a table to meet such requirements. Tabletop installations shall ensure adequate privacy.

(n) Audio ballots shall meet the following standards:

(I) After the initial instruction from an election official, the elector shall be able to independently operate the voter interface device through the final step of casting a ballot without assistance.

(II) The elector shall be able to determine the offices for which the elector is allowed to vote and to determine the candidates for each office.

(III) The elector shall be able to determine how many candidates may be selected for each office.

(IV) The elector shall have the ability to verify that the physical or vocal inputs given to the voting system have selected the candidates that the elector intended to select.

(V) The elector shall be able to review the candidate selections that the elector has made.

(VI) Before casting the ballot, the elector shall have the opportunity to change any selections previously made and confirm a new selection.

(VII) The voting system shall communicate to the elector the fact that the elector has failed to vote for an office or has failed to vote the number of allowable candidates for an office and require the elector to confirm his or her intent to undervote before casting the ballot.

(VIII) The voting system shall warn the elector of the consequences of overvoting for an office.

(IX) The elector shall have the opportunity to input a candidate's name for each office that allows a write-in candidate.

(X) The elector shall have the opportunity to review the elector's write-in input to the voter interface device, edit that input, and confirm that the edits meet the elector's intent.

(XI) The voting system shall require a clear, identifiable action from the elector to cast the ballot. The voting system shall explain to the elector how to take this action so that the elector has minimal risk of taking the action accidentally, but when the elector intends to cast the ballot, the action can be easily performed.

(XII) After the ballot is cast, the voting system shall confirm to the elector that the ballot has been cast and the elector's process of voting is complete.

(XIII) After the ballot is cast, the voting system shall prevent the elector from modifying the ballot cast or voting another ballot.

(o) Ballot marking devices shall meet the following standards:

(I) The elector shall be able simultaneously to view ballot choices on a high-resolution visual display and to listen to ballot choices with headphones.

(II) The elector shall be able to listen to ballot choices in complete privacy and to turn off the visual display.

(III) The ballot marking device shall have multiple output connections to accommodate various headsets so that the elector is able to use the headset provided with the ballot marking device or his or her own headset.

(IV) The elector shall be able to mark the ballot card in complete independence and in accordance with federal and state law on mandatory accessibility for persons with disabilities.

(V) The ballot marking device shall allow a blind or visually impaired elector to vote in complete privacy.

(VI) The ballot marking device shall have a completely integrated input keypad containing commonly accepted voter accessibility keys with Braille markings.

(VII) The elector shall be able to enter ballot choices using an assistive device, including but not limited to a sip and puff device and a jelly switch.

(VIII) The elector shall be able to magnify the ballot choices on the visual display and to adjust the volume and speed of the audio output.

(IX) The ballot marking device shall have multiple language capability.

(X) The elector shall have the opportunity to input a candidate's name for each office that allows a write-in candidate and to review the elector's write-in input, edit that input, and confirm that the edits meet the elector's intent.

(XI) The elector shall be able independently to review all ballot choices and make corrections before the ballot card is marked, including by receiving a replacement ballot if the elector is otherwise unable to change the ballot or correct an error.

(XII) The elector shall be able to verify, visually or using the audio interface, that the ballot card inserted into the device at the start of voting is blank and that the marked ballot card produced by the ballot marking device is marked as the elector intended.

(XIII) The ballot marking device shall alert the elector before the ballot is marked that the elector has made an overvote, as defined in section 1-1-104 (23.4), or an undervote, as defined in section 1-1-104 (49.7), and allow the elector to make corrections.

Source: L. 2004: Entire part added, p. 1355, § 15, effective May 28. **L. 2007:** (1)(o) added, p. 1975, § 19, effective August 3. **L. 2013:** (1)(f) amended, (HB 13-1303), ch. 185, p. 714, § 52, effective May 10. **L. 2024:** IP(1) and (1)(h) amended, (SB 24-210), ch. 468, p. 3250, § 20, effective June 6.

Cross references: In 2013, subsection (1)(f) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-705. Accessible voter interface devices - minimum requirement.

A voting system must include at least one accessible voter interface device installed at each polling location that meets the requirements of this part 7.

Source: L. 2004: Entire part added, p. 1357, § 15, effective May 28. **L. 2010:** (2) repealed, (HB 10-1116), ch. 194, p. 833, § 14, effective May 5. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 715, § 53, effective May 10. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3250, § 21, effective June 6.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-5-706. Ballot access for voters with a disability - definition.

(1) The secretary of state shall establish procedures to enable a voter with a disability to independently and privately mark a ballot or use an electronic voting device that produces a paper record using nonvisual access, low-vision access, or other assistive technology in order for the voter to vote in a mail ballot election pursuant to article 7.5 of this title 1. The procedures shall include a method, to be determined by the secretary of state, by which a voter with a disability may request such a ballot.

(1.5) In addition to the procedures specified in subsection (1) of this section, the secretary of state shall establish an electronic transmission system through which a voter with a disability may request and return a ballot.

(2) (a) A voter with a disability who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose electronic mail delivery or, if offered by the voter's jurisdiction, other electronic means. The designated election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(b) If a ballot application from a voter with a disability arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a

ballot and balloting materials shall transmit them to the voter within seventy-two hours after the receipt of the application.

(c) A voter with a disability who receives a ballot pursuant to this subsection (2) may print and return the ballot or may return the ballot by electronic transmission if the voter affirms the voter is an eligible person in accordance with subsection (2)(d) of this section. To be valid, a ballot returned by a voter pursuant to this subsection (2) must include a signed affidavit or a copy of an acceptable form of identification as defined in section 1-1-104 (19.5) and must be received by the election official in the applicable jurisdiction before the close of polls on the day of the election.

(d) As used in this section, "eligible person" means an individual who, regardless of any other disability:

(I) Is blind;

(II) Has a visual impairment or perceptual or reading disability that cannot be improved to give visual function substantially equivalent to that of a person who has no such impairment or disability and so is unable to read or mark a ballot to substantially the same degree as a person without an impairment or disability; or

(III) Is otherwise unable, through physical disability, to hold, mark, or manipulate a ballot or to focus or move the eyes to the extent that would be normally acceptable for reading or marking a ballot.

Source: L. 2019: Entire section added, (SB 19-202), ch. 327, p. 3038, § 1, effective August 2. **L. 2021:** (1.5) and (2)(d) added and (2)(c) amended, (SB 21-188), ch. 171, p. 945, § 1, effective September 7.

1-5-707. Voting notice required - covered entities.

(1) A covered entity shall publicly display at least one notice in each building that it occupies and in which it serves clients.

(2) The notice required by subsection (1) of this section must:

(a) Include information on voter registration, voting rights, and voting-related accessibility accommodations;

(b) Include contact information for the secretary of state accessibility coordinator;

(c) Include contact information for requesting effective communication accommodations consistent with Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq.;

(d) State that information concerning drop boxes and voter service and polling centers can be found on county election websites;

(e) Be written in plain language; and

(f) Be available in alternate accessible formats.

(3) A covered entity shall publicly display the notice required by subsection (1) of this section during the thirty days preceding a general or coordinated election.

Source: L. 2025: Entire section added, (SB 25-001), ch. 178, p. 745, § 6, effective August 6.

PART 8

VOTER-VERIFIED PAPER RECORD

1-5-801. Acquisition of voting systems - voter-verified paper record.

(1) On and after June 6, 2005, a political subdivision shall not acquire a voting system unless the voting system is capable of producing a voter-verified paper record of each elector's vote.

(2) A political subdivision shall not acquire a voting device that has been retrofitted to comply with this part 8 unless the voting device has been certified by the secretary of state.

Source: L. 2005: Entire part added, p. 1402, § 22, effective June 6; entire part added, p. 1438, § 22, effective June 6. **L. 2009:** (2) amended, (HB 09-1335), ch. 260, p. 1194, § 9, effective May 15.

1-5-802. Use of voting systems - voter-verified paper record.

(1) In addition to the other requirements of this article, the voting system used in each primary, general, coordinated, or congressional district vacancy election held in the state on and after January 1, 2010, shall have the capability to produce a voter-verifiable paper record of each elector's vote. Before an elector's vote is cast, the elector shall have the opportunity, in private and without assistance, to inspect and verify that the voter-verified paper record correctly reflects

the elector's choices. Any political subdivision that has not complied with the provisions of this section on or before January 1, 2009, shall comply with such provisions by January 1, 2014.

(2) The requirements of subsection (1) of this section shall apply to each primary, general, coordinated, or congressional district vacancy election conducted by a county clerk and recorder on and after January 1, 2008, if the governing body of the county determines that:

(a) The technology necessary to comply with the requirements of subsection (1) of this section is available; and

(b) (I) Sufficient federal or state funds are available to acquire or retrofit voting devices that comply with the requirements of subsection (1) of this section; or

(II) It is otherwise financially feasible for the county to comply with the requirements of subsection (1) of this section.

(3) Upon satisfaction by a county of the requirements of this section, the voter-verified paper record of each eligible elector's vote, whether filled out by hand or produced by a voting machine or ballot marking device, shall be preserved as an election record pursuant to section 1-7-802 and shall constitute an official record of the election.

(4) No voting device shall be remotely accessed or remotely accessible until after the close of voting and a results total tape has been printed, as applicable.

Source: L. 2005: Entire part added, p. 1403, § 22, effective June 6; entire part added, p. 1438, § 22, effective June 6. **L. 2009:** (1) amended, (HB 09-1335), ch. 260, p. 1194, § 10, effective May 15.

PART 9

MULTILINGUAL BALLOT ACCESS

1-5-901. Short title.

The short title of this part 9 is the "Ballot Access for All Citizens Act".

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2408, § 1, effective June 28.

1-5-902. Legislative declaration - intent.

(1) The general assembly hereby finds and declares that:

(a) Congress enacted the language minority provisions of the federal "Voting Rights Act of 1965" because "through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process...";

(b) Today, the formula in section 203 of the "Voting Rights Act of 1965" requires only the Colorado counties of Conejos, Costilla, Denver, and Saguache to provide election materials in both English and Spanish and requires one other Colorado county to provide information in Ute;

(c) Based on the 2017 five-year estimates specified in the United States bureau of the census American community survey, there are one hundred three thousand one hundred forty-six eligible electors in Colorado who speak English "less than very well". An estimated eighty-two thousand ninety-six of those eligible electors live in counties where ballots and other election materials are not available in languages other than English.

(d) Further compounding the problem of ballot access for minority language speakers is the reading level at which Colorado's ballots are written. For many minority language speakers the ballot is simply incomprehensible even if they speak and read some English.

(e) Section 203 of the "Voting Rights Act of 1965" covers a jurisdiction when the number of United States citizens of voting age in that jurisdiction has a single language group that:

(I) Is more than ten thousand people of voting age, is more than five percent of all voting-age citizens, or is on an American Indian reservation and exceeds five percent of all reservation residents; and

(II) The illiteracy rate of the group is higher than the national illiteracy rate;

(f) Colorado does not currently expand minority language ballot access beyond federal requirements; and

(g) Colorado has an opportunity to make the ballot accessible to more eligible electors and provide them with meaningful access to a ballot that they are able to read, understand, and vote.

(2) The general assembly further finds and declares that the intent of this part 9 is to:

(a) Provide ballot access to electors throughout the state while balancing the reality of limited state and county resources; and

(b) Expand minority language ballot access without changing or reducing the state's existing responsibilities pursuant to section 203 of the "Voting Rights Act of 1965".

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2408, § 1, effective June 28.

1-5-903. Definitions.

As used in this part 9, unless the context otherwise requires:

(1) "County clerk" means the county clerk and recorder of any county in the state.

(2) "Minority language ballot" means a ballot that is fully translated into a language other than English. The content of a "minority language ballot" may be in only a language other than English or both English and a language other than English.

(3) "Minority language sample ballot" means a document that is available to eligible electors to help them prepare for an election that contains all candidates, questions, and instructions for voting, and is fully translated into a language other than English.

(4) "Qualified translator or interpreter" means a translator or interpreter who is determined by the secretary of state to:

(a) Be screened and tested for proficiency in both written English and the target language with affiliation or accreditation by a nationally recognized association of translators or have other credentials or certifications that are comparable to or exceed the standards used by a nationally recognized association of translators; and

(b) Produce translations that are linguistically accurate, culturally appropriate, and technically consistent with the original documents.

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2409, § 1, effective June 28.

1-5-904. Multilingual ballot hotline - creation - secretary of state - rules.

(1) The secretary of state shall establish a multilingual ballot hotline to provide access to a qualified translator or interpreter in each of the languages in the state that has at least two thousand citizens age eighteen years or older who speak English less than very well, as defined by the United States bureau of the census American community survey or comparable census data, and who speak a shared minority language at home, and in any additional languages the secretary determines by rule is needed to assist electors in translating ballot language. The multilingual ballot hotline shall be established for use during the general election held in November 2022, and for every general election and statewide odd-year election thereafter.

(2) The secretary of state shall provide notice on the secretary's website and shall create signs to be posted by county clerks at all voter service and polling centers to inform electors that the multilingual ballot hotline is available to electors statewide from the first day that domestic ballots for statewide general and coordinated elections are mailed to electors through election day. The multilingual ballot hotline must be available anytime a voter visits a voter service and

polling center during that center's hours of public operation. The multilingual ballot hotline must be available to all other voters between 8 a.m. and 5 p.m. Monday through Friday beginning the first day that domestic ballots for statewide general and coordinated elections are mailed to electors through the Friday before election day. The hotline must be available to all voters between 7 a.m. and 7 p.m. on the Monday before election day and on election day.

(3) The secretary of state shall ensure that each translator or interpreter who provides translations for the multilingual ballot hotline is a qualified translator or interpreter in the language or languages in which the translator or interpreter provides ballot translation assistance. A qualified translator or interpreter shall provide assistance with translation of ballot language only and shall not provide explanations of or arguments for or against any candidate or question included on the ballot.

(4) The secretary of state shall promulgate rules in accordance with article 4 of title 24 as may be necessary to create and administer the multilingual ballot hotline, including rules regarding hiring or contracting for qualified translators or interpreters to staff the multilingual ballot hotline. The secretary of state may include rules for sharing qualified translator or interpreter resources with other state agencies.

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2410, § 1, effective June 28.

1-5-905. Multilingual ballot access - general provisions - requirements of secretary of state - county clerks.

(1) A county clerk is required to provide multilingual ballot access by creating a minority language sample ballot pursuant to section 1-5-906 and providing an in-person minority language ballot pursuant to section 1-5-907 if:

(a) The county has at least two thousand citizens age eighteen years or older who speak English less than very well, as defined by the United States bureau of the census American community survey or comparable census data, and who speak a shared minority language at home; or

(b) At least two and one-half percent of citizens in the county age eighteen years or older speak English less than very well, as defined by the United States bureau of the census American community survey or comparable census data, and speak a shared minority language at home.

(2) The secretary of state shall determine which counties in the state are required to provide multilingual ballot access and, therefore, are required to create a minority language sample ballot pursuant to section 1-5-906 and provide an in-person minority language ballot pursuant to section 1-5-907. The secretary of state shall make such determination based on information

provided in the most recent five-year estimates specified in the United States bureau of the census American community survey or comparable census data. The secretary of state shall notify the county clerk of any county that is required to provide a minority language sample ballot pursuant to section 1-5-906 and provide an in-person minority language ballot pursuant to section 1-5-907 on or before January 5, 2022, and on or before January 5 of each even year and a year following the release of data collected pursuant to section 203 of the federal "Voting Rights Act of 1965" by the federal government thereafter. In addition, on or before January 5, 2022, and on or before January 5 of each even year or a year following the release of data collected pursuant to section 203 of the federal "Voting Rights Act of 1965" by the federal government thereafter, the secretary of state shall post a list on the secretary's website of all counties that are required to provide a minority language sample ballot pursuant to section 1-5-906 and provide an in-person minority language ballot pursuant to section 1-5-907.

(3) Legislative council staff shall provide to the secretary of state a translation of all statewide ballot questions or issues that will appear on the ballot in every language in which a minority language sample ballot must be provided in the state. The secretary of state shall provide each county clerk that is subject to this part 9 with a translation in the applicable language of all content that is certified to the county clerks by the secretary of state. The county clerk of each county shall use the translation provided by the secretary of state in creating the minority language sample ballot and in providing the in-person minority language ballot for his or her county.

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2411, § 1, effective June 28. **L. 2026:** (2) amended, (HB 26-1113), ch. 267, p. 1501, § 38, effective June 1.

1-5-906. Minority language sample ballots - county clerk.

(1) The county clerk of any county that satisfies the criteria specified in section 1-5-905 (1) shall, in coordination with the secretary of state, create a minority language sample ballot in any minority language spoken in the county that satisfies the following:

(a) The minority language is spoken by at least two thousand citizens in the county age eighteen years or older who speak English less than very well, as defined by the United States bureau of the census American community survey, and who speak the minority language at home; or

(b) The minority language is spoken by at least two and one-half percent of citizens in the county age eighteen years or older who speak English less than very well, as defined by the United States bureau of the census American community survey, and who speak the minority language at home.

(2) The minority language sample ballot must include all of the same content that is on the English language ballot.

(3) A county clerk that is required to create a minority language sample ballot in one or more minority languages pursuant to this section shall provide such minority language sample ballots for the general election held in November 2022, and for each general election and statewide odd-year election thereafter.

(4) The minority language sample ballot must include the instructions for every ballot style in the county. The county clerk is not required to create a sample ballot for every ballot style in the county but may instead create one master document containing all the candidates, questions, and instructions included on every ballot style in the county. Instead of creating one master document, the county clerk may choose to create a minority language sample ballot for each ballot style in the county.

(5) The county clerk shall make the minority language sample ballot available and accessible to electors in the county on the website of the county clerk and at voter service and polling centers county-wide. The county clerk shall notify all electors in the county via the mail ballot packet and in each language in which a minority language sample ballot will be created that a minority language sample ballot is available.

(6) A county clerk shall ensure that the translation provided for the minority language sample ballot is performed by one or more qualified translators.

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2412, § 1, effective June 28.

1-5-907. In-person minority language ballot - county clerk - voter service and polling centers.

(1) The county clerk of any county that satisfies the criteria specified in section 1-5-905 (1) shall ensure that every voter service and polling center in the county is equipped to provide, upon the request of an elector, an in-person minority language ballot in any minority language spoken in the county that satisfies the following:

(a) The minority language is spoken by at least two thousand citizens in the county age eighteen years or older who speak English less than very well, as defined by the United States bureau of the census American community survey or comparable census data, and who speak the minority language at home; or

(b) The minority language is spoken by at least two and one-half percent of citizens in the county age eighteen years or older who speak English less than very well, as defined by the

United States bureau of the census American community survey or comparable census data, and who speak the minority language at home.

(2) An in-person minority language ballot option shall be either a ballot on demand, a ballot from a printed stock of ballots, or a ballot via a voting device and shall include all of the same content that is on the English language ballot.

(3) A county clerk that is required to provide an in-person minority language ballot option in one or more minority languages pursuant to this section shall provide in-person minority language ballot options for the general election held in November 2022, and for each general election and statewide odd-year election thereafter.

(4) The county clerk shall notify all electors via the mail ballot packet and in each language in which the in-person minority language ballot option will be available that electors may request an in-person minority language ballot in the applicable language at any voter service and polling center in the county.

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2413, § 1, effective June 28.

1-5-908. State assistance to counties for implementation costs.

Subject to available resources, the state shall endeavor to provide financial assistance to counties that are subject to the requirements of this part 9 to offset the costs incurred by the counties in complying with this part 9.

Source: L. 2021: Entire part added, (HB 21-1011), ch. 366, p. 2413, § 1, effective June 28.

ARTICLE 5.5

Internet-based Voting Pilot Program for Absent Uniformed Services Electors

1-5.5-101. Pilot program - internet voting system - absent uniformed services elector - secretary of state - fund - rules.

1-5.5-101. Pilot program - internet voting system - absent uniformed services elector - secretary of state - fund - rules.

(1) The secretary of state, in coordination with the county clerk and recorders, shall develop an internet-based voting pilot program to facilitate voting by absent uniformed services electors serving outside the United States commencing with the general election held in 2012. The secretary of state shall select one or more political subdivisions to participate in the pilot program. The internet-based voting system developed for use by political subdivisions that participate in the pilot program shall:

(a) Transmit encrypted information over a secure network;

(b) Provide for secure identification and authentication of:

(I) Any information transmitted on the system; and

(II) Each designated or coordinated election official of a county or political subdivision and the servers of such officials and all other related electronic equipment being used by the secretary of state and each official in the conduct of elections via the internet;

(c) Protect the privacy, anonymity, and integrity of each elector's ballot;

(d) Prevent the casting of multiple ballots via the internet in an election by each elector;

(e) Provide protection against abuse, including tampering, fraudulent use, and illegal manipulation by electors, election officials, or any other individual or group; and

(f) Provide uninterrupted and reliable internet availability for the purpose of casting votes via the internet by the electors.

(2) The secretary of state shall implement the internet-based voting system so that each designated or coordinated election official of a county or other political subdivision participating in the pilot program shall:

(a) Assure that each absent uniformed services elector serving outside the United States who logs in to vote via the internet is eligible and registered to vote;

(b) Verify that each elector who logs in to vote via the internet is the same person who is registered and qualified to vote;

(c) Verify that the votes of the electors transmitted to the election officials via the internet are private and secure and have not been viewed or altered by sites that lie between the voting location and the vote-counting destination;

(d) Verify that all votes cast via the internet by electors were cast by 7 p.m. mountain standard time on the day of the election; and

(e) Verify that all votes cast via the internet by electors were indeed counted and attributed correctly to the elector who cast the vote.

(3) The secretary of state may by rule promulgated in accordance with article 4 of title 24, C.R.S., establish procedures necessary to implement this article.

(4) There is hereby created in the state treasury the internet-based voting pilot program fund to provide for the direct and indirect costs associated with implementing this article. The fund consists of any moneys appropriated by the general assembly to the fund and any gifts, grants, and donations to the fund from private or public sources for the purposes of this article. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund. Moneys in the fund shall be subject to annual appropriation by the general assembly to the department of state for the purposes specified in this article. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be transferred to the general fund or any other fund.

(5) Repealed.

Source: L. 2009: Entire article added, (HB 09-1205), ch. 383, p. 2078, § 2, effective August 5. **L. 2012:** IP(1) and (4) amended and (5) repealed, (SB 12-062), ch. 97, p. 326, § 2, effective April 12.

ARTICLE 6

Election Judges

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1-6-100.3. Definitions.

As used in this article 6, unless the context otherwise requires:

(1) "Election judge" means a registered elector appointed by the county clerk and recorder or designated elected official to perform the election duties assigned by the county clerk and recorder or designated election official. "Election judge" also includes a student election judge appointed pursuant to the provisions of section 1-6-101 (7).

(2) "Student election judge" means a student who meets the requirements of section 1-6-101 (7) and who is appointed by a designated election official for service as an election judge pursuant to section 1-6-101.

Source: L. 2025: Entire section added with relocations, (SB 25-275), ch. 377, p. 2028, § 4, effective August 6.

Editor's note: Subsections (1) and (2) are similar to former § 1-6-101 (1) and (7)(b), respectively, as they existed prior to 2025.

1-6-101. Qualifications for election judges - student election judges - legislative declaration.

(1) Repealed.

(2) The persons appointed as election judges, except for persons appointed as student election judges pursuant to the provisions of subsection (7) of this section, shall certify in writing that they meet the following qualifications:

(a) They are registered electors of the state and are willing to serve;

(b) They are physically and mentally able to perform and complete the assigned tasks;

(c) They will attend a class of instruction concerning the tasks of an election judge prior to each election;

(d) They have never been convicted of election fraud, any other election offense, or fraud; and

(e) They are neither a candidate whose name appears on the ballot in the precinct that they are appointed to serve nor a member of the immediate family, related by blood, marriage, or civil union to the second degree, of a candidate whose name appears on the ballot in the precinct that they are appointed to serve.

(3) With regard to any nonpartisan election that is not coordinated by the county clerk and recorder, the election judge shall be a registered elector of the political subdivision for which the election is being held. If enough registered electors of the political subdivision are not available, then the appointing authority may appoint election judges who are registered electors of the state.

(4) Before serving as an election judge, any person recommended as an election judge in accordance with section 1-6-102, 1-6-103, 1-6-103.5, or 1-6-103.7 shall complete and file an acceptance form with the county clerk and recorder or other designated election official as provided in section 1-6-106. The acceptance forms may be kept on file with the county clerk and recorder or other designated election official for up to two years from the date of signing the acceptance form.

(5) The county clerk and recorder or the designated election official shall hold a class of instruction concerning the tasks of an election judge and a special school of instruction concerning the task of a supervisor judge not more than sixty days prior to each election.

(6) Each person appointed as an election judge shall be required to attend one class of instruction prior to the first election in an election cycle in which the person will serve as an election judge. The county clerk and recorder or other designated election official may require a person appointed as an election judge to attend more than one class of instruction in an election cycle.

(7) (a) The general assembly hereby finds and declares that, in order to promote a greater awareness among young people concerning the electoral process, the rights and responsibilities of voters, and the importance of citizen participation in public affairs, as well as to provide additional qualified individuals willing and able to assist with the electoral process, qualified students may be allowed to serve as student election judges. Therefore, it is the intent of the general assembly in enacting this subsection (7) to authorize designated election officials to appoint qualified students to serve as election judges in conformity with this section.

(b) Repealed.

(c) The designated election officials may work with school districts and public or private secondary educational institutions to identify students willing and able to serve as student election judges. Such school districts or educational institutions may submit the names of the students to the designated election official of the jurisdiction in which the school district or educational institution is located for appointment as student election judges. Home-schooled students may apply to the designated election official for appointment as a student election judge pursuant to this section. From among the names submitted, the designated election officials may select students to serve as student election judges who meet the following qualifications:

(I) They are a United States citizen or will be a citizen at the time of the election to which the student is serving as a student election judge;

(II) They are willing to serve;

(III) They are physically and mentally able to perform and complete the assigned tasks;

(IV) They will attend a class of instruction concerning the tasks of an election judge prior to each election;

(V) They have never been convicted of election fraud, any other election offense, or fraud;

(VI) They are not a member of the immediate family, related by blood, marriage, or civil union to the second degree, of a candidate whose name appears on the ballot in the precinct that they are appointed to serve;

(VII) They are fifteen years old or older and a student in good standing attending a public or private secondary educational institution or being home-schooled at the time of the election to which the student is serving as a student election judge; and

(VIII) Their parent or legal guardian has consented to their service as a student election judge.

Source: L. 92: Entire article R&RE, p. 723, § 8, effective January 1, 1993. **L. 93:** IP(1) amended and (3) and (4) added, p. 1414, § 58, effective July 1. **L. 96:** (1)(d) and (2) amended, p. 1744, § 38, effective July 1. **L. 98:** Entire section amended, p. 574, § 1, effective April 30. **L. 2000:** (1) and IP(2) amended and (7) added, p. 1333, § 1, effective July 1. **L. 2002:** (4) and (6) amended, p. 1631, § 8, effective June 7. **L. 2005:** (5) amended, p. 1403, § 23, effective June 6; (5) amended, p. 1438, § 23, effective June 6. **L. 2007:** (5) amended, p. 1977, § 20, effective August 3. **L. 2012:** (7)(a), (7)(b), and IP(7)(c) amended, (HB 12-1292), ch. 181, p. 683, § 23, effective May 17. **L. 2013:** (2)(e), (5), and (7)(c)(VI) amended, (HB 13-1303), ch. 185, p. 715, § 54, effective May 10. **L. 2018:** (2)(a) and (5) amended, (SB 18-233), ch. 262, p. 1608, § 14, effective May 29. **L. 2025:** (1) and (7)(b) repealed, (SB 25-275), ch. 377, p. 2109, § 336, effective August 6. **L. 2026:** (7)(c)(VII) amended, (HB 26-1113), ch. 267, p. 1503, § 41, effective June 1.

Editor's note: Subsections (1) and (7)(b) were relocated to § 1-6-600.3 in 2025.

Cross references: (1) For transferring names of electors when precinct boundaries changed, see § 1-2-223; for the power of the board of county commissioners to form new precincts, change the names of precincts, or reduce the numbers of precincts, see § 30-11-114.

(2) In 2013, subsections (2)(e), (5), and (7)(c)(VI) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Annotator's note. The following annotations are taken from cases decided under former provisions similar to this section.

Judicial notice taken of boundaries of election precincts. Courts take judicial notice of matters of common knowledge in the community where they sit, such as the boundaries of election precincts. Nat'l Optical Co. v. United States Fid. & Guar.

Co., 77 Colo. 130, 235 P. 343 (1925); Antlers Athletic Ass'n v. Hartung, 85 Colo. 125, 274 P. 831 (1928); Israel v. Wood, 93 Colo. 500, 27 P.2d 1024 (1933).

And a court will take judicial notice of the fact that there has been a precinct established in a county, it not being material whether the precinct was established upon proper petition or by virtue of authority so to do under this section. Bd. of Comm'rs v. People ex rel. McPherson, 36 Colo. 246, 91 P. 36 (1906).

Whereupon a mandamus proceeding will be dismissed. When a court takes judicial notice that an election precinct has been established, a mandamus proceeding to compel the board of county commissioners to establish such precinct pending upon review in such court will be dismissed, there being no live question for determination. Bd. of Comm'rs v. People ex rel. McPherson, 36 Colo. 246, 91 P. 36 (1906).

1-6-102. List furnished by precinct committeepersons.

(1) No later than ten days after the precinct caucus in even-numbered years, the committeepersons of each precinct from each major political party shall submit to the county chairpersons of their respective political parties a list that was initiated at the precinct caucus and that recommends registered electors as election judges. The registered electors recommended as election judges must reside in the precinct and have a current affiliation with the political party that held the precinct caucus.

(2) If there is no county chairperson, the committeeperson of each precinct shall submit the list that was initiated at the precinct caucus and that recommends registered electors as election judges directly to the county clerk and recorder. If a precinct has no committeeperson, the district captain, if any, shall submit the list of recommended election judges to the county chairperson or county clerk and recorder, as appropriate.

Source: L. 92: Entire article R&RE, p. 723, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 575, § 2, effective April 30.

Editor's note: This section is similar to former § 1-5-106 as it existed prior to 1992.

1-6-103. Recommendations by county chairperson.

(1) (a) No later than the first Tuesday of April in even-numbered years, the county chairperson of each major political party in the county shall certify to the county clerk and

recorder the names and addresses of registered electors recommended to serve as election judges from the county.

(b) Repealed.

(2) The county chairperson, or, if there is no county chairperson, the committeepersons who submitted the list of registered electors in accordance with section 1-6-102 (2) shall designate the order of preference of the names of the registered electors recommended to serve as election judges. The county clerk and recorder shall select election judges in the county chairperson's, or, if there is no county chairperson, the committeeperson's, order of preference.

(3) In recommending registered electors as election judges, the county chairperson may select only names from the list submitted by the precinct committeepersons. However, the county chairperson may recommend additional registered electors to the county clerk and recorder if the precinct committeepersons do not provide enough names to the county chairperson.

(4) and (5) (Deleted by amendment, L. 98, p. 576, § 3, effective April 30, 1998.)

Source: L. 92: Entire article R&RE, p. 724, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 576, § 3, effective April 30. **L. 2002:** (1) amended, p. 134, § 6, effective March 27. **L. 2024:** (1)(a) and (2) amended, (SB 24-210), ch. 468, p. 3250, § 22, effective June 6.

Editor's note: (1) This section is similar to former § 1-5-107 as it existed prior to 1992.

(2) Subsection (1)(b)(II) provided for the repeal of subsection (1)(b), effective July 1, 2002. (See L. 2002, p. 134.)

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Section applies to municipal elections. The right of the elector to be safeguarded in the exercise of his franchise - a right conferred by the sovereign authority of the state - carries with it the corresponding duty, on the part of the state, to furnish all needed protection; this is of public concern, therefore, even municipal elections are within the provisions of this section requiring the county chairman to submit a list of names to serve as election judges. Mauff v. People, 52 Colo. 562, 123 P. 101 (1912) (decided under former law).

Requirement that persons serving as election judges must be affiliated with one of two major political parties does not violate right to freedom of speech and

association or right to equal protection since the statute is rationally related to the legitimate ends of efficiently running an election by pairing Democrats and Republicans as election monitors to provide the appearance of propriety. MacGuire v. Houston, 717 P.2d 948 (Colo. 1986).

Applied in Nichol v. Bair, 626 P.2d 761 (Colo. App. 1981).

1-6-103.5. Recommendations by minor political parties.

No later than sixty days before a primary or general election, the county chairperson or other authorized official of a minor political party may certify to the county clerk and recorder an initial list of the names and addresses of registered electors recommended to serve as election judges in the county. If the list contains more than one name, the order of preference must be indicated. The county clerk and recorder shall select election judges from the party according to such order of preference, if indicated.

Source: L. 2002: Entire section added, p. 1631, § 9, effective June 7. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1608, § 15, effective May 29.

1-6-103.7. Unaffiliated voters - self-nomination.

No later than sixty days before a primary or general election, any registered elector who is unaffiliated with a political party or political organization may give notice in writing to the clerk and recorder of the county in which such elector resides offering to serve as an election judge and stating that the elector is a registered elector and is unaffiliated with any political party or political organization.

Source: L. 2002: Entire section added, p. 1631, § 9, effective June 7. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1609, § 16, effective May 29.

1-6-104. Appointment of election judges by county clerk and recorder and designated election officials.

(1) For each election coordinated by the county clerk and recorder, the county clerk and recorder shall appoint election judges for each location where election activities are occurring.

(2) The county clerk and recorder may appoint an election judge to serve in a county other than the county in which the election judge resides.

(3) If, at the time the county clerk and recorder appoints election judges, the list of recommended election judges submitted in accordance with section 1-6-102 contains an insufficient number of names for a major political party's share of the total number of election judges as required in section 1-6-109, the designated election official shall appoint any additional election judges necessary from among the persons recommended by minor political parties in accordance with section 1-6-103.5 and the unaffiliated voters who have offered to serve as election judges in accordance with section 1-6-103.7.

(4) For each election coordinated by the county clerk and recorder, the county clerk and recorder may appoint one or more student election judges that satisfy the requirements contained in section 1-6-101 (7) to serve as an election judge, and shall designate the locations where election activities are occurring in which the student election judge shall serve based upon the number of qualified students and vacancies in the number of available positions for election judges throughout the county.

Source: L. 92: Entire article R&RE, p. 725, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 576, § 4, effective April 30. **L. 99:** (3) amended, p. 161, § 13, effective August 4. **L. 2000:** (4) added, p. 1334, § 2, effective July 1. **L. 2002:** (3) amended, p. 1632, § 10, effective June 7. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1609, § 17, effective May 29.

Editor's note: This section is similar to former § 1-5-101 as it existed prior to 1992.

Cross references: For removal of election judges, see §§ 1-6-119 and 1-6-120.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Election judges have both judicial and ministerial duties to perform. People ex rel. Griffith v. Bundy, 107 Colo. 102, 109 P.2d 261 (1940).

Such judicial conclusions are not subject to review by mandamus. People ex rel. Griffith v. Bundy, 107 Colo. 102, 109 P.2d 261 (1940).

And the actual count and determination of election results is a duty of election judges, and their disposition of disputes as to count or the result of a ballot is judicial. People ex rel. Griffith v. Bundy, 107 Colo. 102, 109 P.2d 261 (1940).

1-6-105. Appointment of election judges for elections not coordinated by county clerk and recorder.

(1) Except as provided for special district elections in subsection (1.5) of this section, no later than forty-five days before the regular election, the governing body with authority to call elections shall appoint election judges for the political subdivision. The term of office of election judges shall be two years from the date of appointment.

(1.5) No later than forty-five days before a regular special district election, the designated election official shall appoint election judges for the special district unless otherwise directed by the board of directors of such district.

(2) Any person who has been appointed by a county clerk and recorder and meets the qualifications as prescribed in section 1-6-101 may be appointed as an election judge for elections not coordinated by the county clerk and recorder.

Source: L. 92: Entire article R&RE, p. 725, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 577, § 5, effective April 30. **L. 99:** (1) amended and (1.5) added, p. 451, § 7, effective August 4.

Editor's note: This section is similar to former § 1-5-101 as it existed prior to 1992.

1-6-106. Confirmation and acceptance of election judge appointment.

(1) The designated election official shall confirm the appointments of election judges by sending each appointed election judge a notice of appointment in accordance with subsection (2) of this section.

(2) The notice of appointment shall specify the method of acceptance for the appointment as determined by the designated election official and shall contain:

(a) The statement of qualifications as prescribed in section 1-6-101; and

(b) A statement that, if the person appointed as an election judge either fails to accept the appointment within seven days after the notice of appointment is sent or fails to attend a class of instruction as required in section 1-6-101 (5), the designated election official may determine that a vacancy has been created.

(3) Each person appointed as an election judge shall accept the appointment in the manner specified by the designated election official within seven days after the notice of appointment has

been sent. If a person appointed as an election judge fails to accept the appointment as described in subsection (2) of this section or fails to attend a class of instruction as required in section 1-6-101 (5), the designated election official may determine that a vacancy has been created.

Source: L. 92: Entire article R&RE, p. 725, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 577, § 6, effective April 30. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1504, § 42, effective June 1.

Editor's note: This section is similar to former § 1-5-108 as it existed prior to 1992.

1-6-107. Acceptances - school of instruction - appointment of supply judge. (Repealed)

Source: L. 92: Entire article R&RE, p. 725, § 8, effective January 1, 1993. **L. 98:** Entire section repealed, p. 584, § 19, effective April 30.

1-6-108. Lists of election judges.

(1) The designated election official shall make and maintain a master list of election judges who have filed an acceptance form in accordance with section 1-6-101 (4). The master list shall include the name, affiliation, and precinct number of each election judge who has filed an acceptance form, including whether such judge is unaffiliated, affiliated with a minor political party, or affiliated with a qualified political organization.

(2) Any person may obtain, upon written request and payment of the appropriate fee, an exact copy of the list of county election judges from the county clerk and recorder.

Source: L. 92: Entire article R&RE, p. 726, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 578, § 7, effective April 30. **L. 99:** (1) amended, p. 161, § 14, effective August 4.

Editor's note: This section is similar to former § 1-5-108 as it existed prior to 1992.

1-6-109. Party affiliation of election judges in partisan elections - definition.

(1) For partisan elections in voter service and polling centers that have an even number of election judges, each major political party is entitled to one-half of the number of election judges.

(2) For partisan elections in voter service and polling centers that have an odd number of election judges, one major political party is entitled to the extra election judge in one-half of the voter service and polling centers, as determined by the county clerk and recorder, and the other major political party is entitled to the extra election judge in the other one-half of the voter service and polling centers, as determined by the county clerk and recorder.

(3) If an odd number of voter service and polling centers exist, the county clerk and recorder shall determine which major political party is entitled to any extra election judge. The county clerk and recorder shall make this determination either by mutual agreement of both of the major political parties or, if the two major political parties cannot agree, by lot.

(4) and (5) Repealed.

Source: L. 92: Entire article R&RE, p. 726, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 578, § 8, effective April 30. **L. 2002:** (4) repealed, p. 1642, § 39, effective June 7. **L. 2012:** (5) added, (HB 12-1292), ch. 181, p. 684, § 24, effective May 17. **L. 2018:** (1), (2), and (3) amended, (SB 18-233), ch. 262, p. 1610, § 18, effective May 29.

Editor's note: (1) This section is similar to former § 1-5-102 as it existed prior to 1992.

(2) Subsection (5)(b) provided for the repeal of subsection (5), effective January 1, 2015. (See L. 2012, p. 684.)

1-6-109.5. Appointment and duties of supervisor judge - definition.

(1) The designated election official shall appoint at least one election judge in each voter service and polling center as supervisor judge. To the extent possible, supervisor judges must be from a major political party, and if more than one supervisor judge is serving at a voter service and polling center, the judges must be of different political party affiliations. The designated election official shall notify the supervisor judge of the appointment.

(2) For partisan elections, each major political party is entitled to one-half of the total number of supervisor judges appointed. If an odd number of supervisor judges is appointed, the county clerk and recorder shall determine which major political party is entitled to the one extra supervisor judge. The county clerk and recorder makes this determination by the mutual

agreement of the two major political parties or, if the two major political parties cannot agree, by lot.

(3) Prior to the election, the supervisor judge shall attend a special school of instruction held by the designated election official.

(4) (a) The supervisor judge shall coordinate the conduct of the election in the polling location. For nonpartisan elections, the supervisor judge's responsibilities include receiving election supplies and equipment from the designated election official; delivering election supplies and equipment to the polling location, and returning all election supplies, election equipment, and ballots to the designated election official once the election is concluded.

(b) For partisan elections, the county clerk and recorder may deputize a courier to return the election supplies, election equipment, and ballots to the county clerk and recorder once the election is concluded. If the county clerk and recorder does not deputize a courier, the supervisor judge and a second election judge from the voter service and polling center shall return the election supplies, election equipment, and the ballots to the county clerk and recorder. The second election judge is selected by the election judges in the voter service and polling center other than the supervisor judge and must have a political affiliation different than the supervisor judge.

(5) Repealed.

Source: L. 98: Entire section added, p. 579, § 9, effective April 30. **L. 2012:** (5) added, (HB 12-1292), ch. 181, p. 684, § 25, effective May 17. **L. 2013:** (1), (2), (3), and (4) amended, (HB 13-1303), ch. 185, p. 716, § 55, effective May 10. **L. 2018:** (1) amended, (SB 18-233), ch. 262, p. 1610, § 19, effective May 29.

Editor's note: Subsection (5)(b) provided for the repeal of subsection (5), effective January 1, 2015. (See L. 2012, p. 684.)

Cross references: In 2013, subsections (1), (2), (3), and (4) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-6-110. Judges at primary elections. (Repealed)

Source: L. 92: Entire article R&RE, p. 727, § 8, effective January 1, 1993. **L. 98:** Entire section repealed, p. 584, § 20, effective April 30.

1-6-111. Number of election judges.

(1) For partisan elections, the county clerk and recorder of a county with fifteen thousand or more active electors as of the date of the previous general election shall appoint at least three election judges to serve as judges for each voter service and polling center to perform the designated functions. The county clerk and recorder of a county with fewer than fifteen thousand active electors as of the date of the previous general election shall appoint at least two election judges to serve as judges for each voter service and polling center to perform the designated functions. In each voter service and polling center, notwithstanding any other provision of this article 6 and subject to the availability of election judges who meet the affiliation requirements of section 1-6-109, of the election judges appointed to serve as voter service and polling center judges pursuant to this subsection (1), there must be at least one election judge from each major political party who is not a student election judge.

(2) (Deleted by amendment, L. 98, p. 580, § 10, effective April 30, 1998.)

(3) When two election judges who are not of the same political affiliation are present at the voter service and polling center, voting may proceed.

(4) For nonpartisan elections, the designated election official shall appoint no fewer than two election judges to serve as judges for each voter service and polling center to perform the designated functions.

(5) The designated election official and, for partisan elections, the county clerk and recorder may appoint other election judges as needed to perform duties other than voter service and polling center duties. These duties may include inspecting ballots, duplicating ballots, and counting paper ballots. For partisan elections, if the county clerk and recorder appoints election judges to perform duties other than voter service and polling center duties, the county clerk and recorder shall appoint two election judges to perform such duties. The two election judges so appointed shall not be of the same political affiliation.

(6) (Deleted by amendment, L. 2013.)

(7) Where student election judges have been appointed by the county clerk and recorder to serve in a particular voter service and polling center pursuant to this article 6, no more than half of the total number of election judges serving in any one polling location are permitted to be student election judges.

(8) Subject to the requirements of this article 6 regarding the number and party affiliation of election judges, the county clerk and recorder or designated election official may allow an

election judge to work at a voter service and polling center for a shift lasting less than an entire day; except that at least two judges of different affiliations must be present at each voter service and polling center at all times.

Source: L. 92: Entire article R&RE, p. 727, § 8, effective January 1, 1993. **L. 98:** Entire section amended, p. 580, § 10, effective April 30. **L. 2000:** (1) amended and (7) added, p. 1335, § 3, effective July 1. **L. 2004:** (6) amended, p. 1106, § 5, effective May 27. **L. 2007:** (6) amended and (8) added, p. 1977, § 21, effective August 3. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 716, § 56, effective May 10. **L. 2018:** (3), (4), (5), (7), and (8) amended, (SB 18-233), ch. 262, p. 1610, § 20, effective May 29. **L. 2023:** (1) amended, (SB 23-276), ch. 399, p. 2382, § 23, effective June 6.

Editor's note: This section is similar to former §§ 1-5-104 and 1-5-105 as they existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-6-112. Number of judges in nonpartisan elections. (Repealed)

Source: L. 92: Entire article R&RE, p. 727, § 8, effective January 1, 1993. **L. 98:** Entire section repealed, p. 584, § 21, effective April 30.

1-6-113. Vacancies.

(1) If for any reason any person selected to serve as an election judge fails to attend the class of instruction for election judges, or refuses, fails, or is unable to serve, or is removed by preemption in accordance with section 1-6-119 (1) or for cause in accordance with section 1-6-119 (2), the designated election official thereafter may appoint an election judge to fill such vacancy. For a partisan election, an election judge shall be appointed to fill such vacancy from any of the lists of names previously submitted in accordance with sections 1-6-102, 1-6-103, and 1-6-103.5 or from the unaffiliated voters who have offered to serve as election judges in accordance with section 1-6-103.7.

(2) Repealed.

Source: L. 92: Entire article R&RE, p. 727, § 8, effective January 1, 1993. **L. 93:** (1) amended, p. 1415, § 59, effective July 1. **L. 2002:** (1) amended, p. 1632, § 11, effective June 7. **L. 2013:** (2) repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10. **L. 2019:** (1) amended, (HB 19-1278), ch. 326, p. 3026, § 33, effective August 2.

Editor's note: This section is similar to former § 1-5-110 as it existed prior to 1992.

Cross references: (1) In 2013, subsection (2) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-6-114. Judges - oath required - electioneering prohibited.

(1) Before beginning the duties of an election judge, each person appointed as an election judge must take a self-affirming oath or affirmation in substantially the following form:

I, ..., do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am an eligible elector who resides in the county of ..... or within the ..... political subdivision; that I am a member of the ..... party (or that I am unaffiliated with a political party) as shown in the statewide voter registration system; that I will perform the duties of judge according to law and the best of my ability; that I will studiously strive to prevent fraud, deceit, and abuse in conducting the same; that I will not try to determine how any elector voted, nor will I disclose how any elector voted if in the discharge of my duties as judge such knowledge comes to me, unless called upon to disclose the same before some court of justice; that I have never been convicted of election fraud, any other election offense, or fraud and that, if any ballots are counted before the polls close on the date of the election, I will not disclose the result of the votes until after the polls have closed and the results are formally announced by the designated election official.

(2) (Deleted by amendment, L. 95, p. 838, § 54, effective July 1, 1995.)

(3) For nonpartisan elections, the election judges shall not be required to declare their affiliation on the oath or affirmation.

(4) A person shall not engage in electioneering, as defined in section 1-13-714, or wear or display apparel, buttons, or other materials that promote or oppose a political party, candidate, ballot issue, or ballot question while serving as an election judge.

Source: L. 92: Entire article R&RE, p. 728, § 8, effective January 1, 1993. **L. 93:** (1) amended, p. 1415, § 60, effective July 1. **L. 95:** (1) and (2) amended, p. 838, § 54, effective July 1. **L. 98:** (1) amended, p. 580, § 11, effective April 30. **L. 99:** (3) amended, p. 162, § 15, effective August 4. **L. 2002:** (1) amended, p. 1632, § 12, effective June 7. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 580, § 44, effective May 18. **L. 2021:** (4) added, (SB 21-250), ch. 282, p. 1647, § 31, effective June 21.

Editor's note: This section is similar to former § 1-5-111 as it existed prior to 1992.

1-6-115. Compensation of judges.

(1) In all elections, including primary and general elections, each election judge serving in the precincts on election day shall receive not less than five dollars as compensation for services provided as judge at any election. At the discretion of the county clerk and recorder or designated election official, a student election judge appointed pursuant to the provisions of this article may receive the same compensation received by an election judge but, in any case, not less than seventy-five percent of the compensation received by an election judge for service provided as a judge at any election.

(2) In addition to the compensation provided by subsection (1) of this section, each election judge and student election judge may be paid expenses and reasonable compensation for attending election schools which may be established by the county clerk and recorder or the designated election official. Each supervisor judge appointed by the county clerk and recorder shall be reimbursed no less than five dollars for attending a special school of instruction.

(2.5) The supervisor judge and, for partisan elections, the second election judge selected in accordance with section 1-6-109.5 (4)(b), shall be paid no less than four dollars for returning the election supplies, election equipment, and the ballots to the designated election official. The person providing the transportation may be paid a mileage allowance, to be set by the designated election official but not to exceed the mileage rate authorized for county officials and employees,

for each mile necessarily traveled in excess of ten miles in going to and returning from the office of the designated election official.

(3) Compensation for election judges shall be determined and paid by the governing body calling the election. Compensation for all judges shall be uniform throughout a particular political subdivision, except:

(a) The compensation of student election judges shall be set in conformity with subsection (1) of this section; and

(b) A county is not required to compensate a county employee serving as an election judge in accordance with this section.

(4) Election judges must give the designated election officials their social security numbers in order to receive compensation; however, service as an election judge shall not be considered employment pursuant to articles 70 to 82 of title 8, C.R.S.

Source: L. 92: Entire article R&RE, p. 728, § 8, effective January 1, 1993. **L. 93:** (2) amended, p. 1416, § 61, effective July 1. **L. 95:** (1) amended, p. 839, § 55, effective July 1. **L. 98:** (1) and (2) amended and (2.5) added, p. 581, § 12, effective April 30. **L. 2000:** (1), (2), and (3) amended, p. 1335, § 4, effective July 1. **L. 2002:** (1) amended, p. 1633, § 13, effective June 7. **L. 2006:** (1) amended, p. 48, § 1, effective July 1. **L. 2013:** (2) and (2.5) amended, (HB 13-1303), ch. 185, p. 717, § 57, effective May 10. **L. 2019:** (3) amended, (HB 19-1278), ch. 326, p. 3027, § 34, effective August 2.

Editor's note: This section is similar to former § 1-5-112 as it existed prior to 1992.

Cross references: (1) For the mileage rate authorized for county officers and employees, see § 30-11-107 (1)(t).

(2) In 2013, subsections (2) and (2.5) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-6-116. Delivery of election returns and other election papers - compensation. (Repealed)

Source: L. 92: Entire article R&RE, p. 729, § 8, effective January 1, 1993. **L. 93:** (1) amended, p. 1416, § 62, effective July 1. **L. 94:** (1) amended, p. 1162, § 32, effective July 1. **L. 98:** Entire section repealed, p. 585, § 22, effective April 30.

1-6-117. Judges for new or changed precincts. (Repealed)

Source: L. 92: Entire article R&RE, p. 729, § 8, effective January 1, 1993. **L. 98:** Entire section repealed, p. 585, § 23, effective April 30.

1-6-118. Judges may change polling place. (Repealed)

Source: L. 92: Entire article R&RE, p. 729, § 8, effective January 1, 1993. **L. 93:** (1) amended, p. 1416, § 63, effective July 1. **L. 98:** Entire section repealed, p. 585, § 24, effective April 30.

1-6-119. Removal of election judge by designated election official.

(1) (a) If a county chairperson of a major political party or the county chairperson or other authorized official of a minor political party believes that an election judge appointed to represent that party is not faithfully or fairly representing the party or that an election judge has moved from the county, the county chairperson or authorized official may, subject to the provisions of subsection (1)(b) of this section, exercise a preemptive removal of the election judge. The county chairperson or authorized official shall notify the county clerk and recorder and the election judge of the preemptive removal in writing. Such notice must include documentation regarding the reason for removal of the election judge and must be filed with the county clerk and recorder within three days of receiving the election judge list pursuant to rules promulgated by the secretary of state.

(b) If an election judge is preemptively removed pursuant to subsection (1)(a) of this section, the county clerk and recorder shall allow the election judge two days to appeal the election judge's removal. If appealed, the county clerk and recorder shall review all documentation and determine whether the judge may be removed pursuant to subsection (1)(a) of this section.

(c) The county clerk and recorder shall fill any vacancy created by the preemptive removal as provided in section 1-6-113.

(2) Prior to election day, the designated election official may remove an election judge for cause. Cause includes but is not limited to the election judge's failure to file an acceptance form in accordance with sections 1-6-101 and 1-6-106 and the election judge's failure to attend a class of instruction as required in section 1-6-101 (5).

(3) On election day, the designated election official may remove an election judge who has neglected the duties of the office by failing to appear at the polling location by 7:30 a.m., by leaving the polling location before completing all of the duties assigned, by being unable or unwilling or by refusing to perform the duties of the office, or by electioneering.

(4) Upon receipt of a written complaint made by an eligible elector of the political subdivision concerning an election judge, the designated election official shall investigate the complaint and may remove the election judge and appoint another election judge in accordance with section 1-6-113.

Source: L. 92: Entire article R&RE, p. 730, § 8, effective January 1, 1993. **L. 95:** (3) amended, p. 839, § 56, effective July 1. **L. 98:** Entire section amended, p. 581, § 13, effective April 30. **L. 2002:** (1) and (4) amended, p. 1633, § 14, effective June 7. **L. 2013:** (3) amended, (HB 13-1303), ch. 185, p. 718, § 58, effective May 10. **L. 2024:** (1) amended, (SB 24-210), ch. 468, p. 3251, § 23, effective June 6.

Editor's note: This section is similar to former § 1-5-116 as it existed prior to 1992.

Cross references: In 2013, subsection (3) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-6-120. Removal of election judges by the court.

(1) Upon the failure or neglect of any election judge to perform the duties of the office, any other election judge, the designated election official, the county chairperson of a political party, or an eligible elector of the political subdivision for which the election judge is appointed, having knowledge of the failure or neglect, shall cause proper action for removal to be instituted against the election judge.

(2) Election judges who neglect their duties, who commit, encourage, or connive in any fraud in connection with their duties, who violate any of the election laws or knowingly permit others to do so, who are convicted of any crime, who violate their oath, who wrongfully hamper or interfere or tend to interfere with the regular performance of the duties of the other election judges, who commit any other act that interferes or tends to interfere with a fair and honest registration and election, or who are not appointed in accordance with the provisions of this article may be removed in the following manner:

(a) Any eligible elector may file a brief petition in the district court at any time up to twelve days before any election, setting out in brief and concise language the facts constituting the cause for the removal of the election judge. The petition shall be verified, but the verification may be upon information and belief. Upon filing of the petition, the court shall issue a citation to the election judge directing an appearance within forty-eight hours to answer the petition if the election judge desires to do so.

(b) The court shall proceed summarily to hear and finally dispose of the petition and may set a hearing within forty-eight hours after the answer is filed. Evidence given by any accused election judge at the hearing shall not be used against that election judge in any civil, criminal, or other proceedings. If the court decides that the election judge should be removed for any cause stated in the petition, the court shall so order and shall immediately notify the appropriate election official.

(3) The validity of any part of the registration or election already completed or other acts performed under this code, if otherwise legally performed, shall not be affected by the removal of an election judge and shall be in every respect valid and regular. The successor of any election judge removed shall proceed with the duties of the election judge with the same power and effect as though originally appointed.

Source: L. 92: Entire article R&RE, p. 730, § 8, effective January 1, 1993. **L. 95:** (2)(a) amended, p. 839, § 57, effective July 1.

Editor's note: This section is similar to former § 1-5-117 as it existed prior to 1992.

1-6-121. Election judge vacancies. (Repealed)

Source: L. 98: Entire section added, p. 582, § 14, effective April 30. **L. 2002:** Entire section repealed, p. 1642, § 39, effective June 7.

1-6-122. State employees - leave to serve as election judge.

(1) An employee of a state agency, as defined in section 24-18-102 (9), C.R.S., shall be entitled to take administrative leave with pay on election day for the purpose of serving as an election judge, unless the employee's supervisor determines that the employee's attendance at work on election day is essential.

(2) An employee of a state agency who takes administrative leave with pay to serve as an election judge in accordance with this section shall not receive compensation pursuant to section 1-6-115.

(3) An employee of a state agency who serves as an election judge in accordance with this section shall submit to the employee's supervisor evidence of service as an election judge.

Source: L. 2006: Entire section added, p. 2032, § 12, effective June 6.

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PART 1

HOURS OF VOTING, REGISTRATION, OATHS, AND ASSISTANCE TO VOTE

1-7-101. Hours of voting on election day.

(1) (a) All polling locations must be open continuously from 7 a.m. until 7 p.m. on election day. If a full set of election judges is not present at the hour of 7 a.m. and it is necessary for judges to be appointed to conduct the election as provided in section 1-6-113, the election may commence when two judges who are not of the same political affiliation for partisan elections are present at any hour before the time for closing the polling locations. The polling locations shall remain open after 7 p.m. until every eligible elector who was at the polling location at or before 7 p.m. has been allowed to vote. Except as provided in subsection (1)(b) of this section, any person arriving after 7 p.m. is not entitled to vote.

(b) (I) Any person may petition the district court for the county in which a polling location is located for an order requiring a polling location to remain open after 7 p.m. on election day. The district court shall grant the petition upon a finding that access to or voting at the polling location has been substantially impaired due to inclement weather, equipment failure, technological problems, voter suppression activities, a shortage of supplies, or other exigent circumstance.

(II) If the condition impairing voting at or access to polling locations affects polling locations in more than one county, any person may petition the district court of the city and county of Denver for an order requiring the secretary of state to order all polling locations in all affected counties to remain open after 7 p.m. on election day. The district court shall grant the petition upon a finding that access to or voting at one or more polling locations in the affected counties has been substantially impaired due to inclement weather, equipment failure, technological problems, voter suppression activities, a shortage of supplies, or other exigent circumstance.

(III) If an order is issued in accordance with this subsection (1)(b), every eligible elector who was at a polling location affected by the order at or before the closing time specified in the order shall be allowed to vote. The court shall not order polling locations to remain open for more than an additional six hours.

(1.5) Each drop box must be open until 7 p.m. on election day. Each drop box must remain open after 7 p.m. until every eligible elector who was in line at the drop box at or before 7 p.m. has been allowed to deposit all ballots the person brought in the drop box, subject to the limitation set forth in section 1-7.5-107 (4)(b)(I)(B).

(2) Repealed.

Source: L. 92: Entire article R&RE, p. 731, § 9, effective January 1, 1993. **L. 98:** (1) amended, p. 583, § 17, effective April 30. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 718, § 59, effective May 10. **L. 2019:** (1) amended, (HB 19-1278), ch. 326, p. 3027, § 35, effective August 2. **L. 2021:** (1.5) added, (SB 21-250), ch. 282, p. 1647, § 32, effective June 21. **L. 2026:** (2) repealed, (HB 26-1113), ch. 267, p. 1504, § 43, effective June 1.

Editor's note: This section is similar to former § 1-7-101 as it existed prior to 1992.

Cross references: (1) For the date of general and primary elections, see § 1-1-104 (17) and (32).

(2) In 2013, subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-7-102. Employees entitled to vote.

(1) Eligible electors entitled to vote at an election shall be entitled to absent themselves for the purpose of voting from any service or employment in which they are then engaged or employed for a period of two hours during any day when voter service and polling centers are open. Any such absence shall not be sufficient reason for the discharge of any person from service or employment. Electors, who so absent themselves shall not be liable for any penalty, nor shall any deduction be made from their usual salary or wages, on account of their absence. Electors who are employed and paid by the hour shall receive their regular hourly wage for the

period of their absence, not to exceed two hours. Application shall be made for the leave of absence prior to the day for which leave is requested. The employer may specify the hours during which the employee may be absent, but the hours shall be at the beginning or end of the work shift, if the employee so requests.

(2) An employer may deny an elector's request for leave pursuant to subsection (1) of this section if the elector's hours of employment on the day for which leave is requested are such that there are three or more consecutive hours between the time of opening and the time of closing of the polls during which the elector is not required to be on the job.

Source: L. 92: Entire article R&RE, p. 732, § 9, effective January 1, 1993. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1505, § 44, effective June 1.

Editor's note: This section is similar to former § 1-7-102 as it existed prior to 1992.

Cross references: For employer guilty of a misdemeanor for violation of this section, see § 1-13-719 (1)(b) and (2).

ANNOTATION

Law reviews. For article, "Punitive Damages in Wrongful Discharge Cases", see 15 Colo. Law. 658 (1986).

1-7-103. No voting unless eligible - first-time voters casting a ballot in person after having registered by mail to vote. (Repealed)

Source: L. 92: Entire article R&RE, p. 732, § 9, effective January 1, 1993. **L. 94:** (2) amended, p. 1769, § 29, effective January 1, 1995. **L. 96:** (2) amended and (4) added, p. 1745, § 39, effective July 1. **L. 99:** (2) amended, p. 774, § 49, effective May 20. **L. 2003:** (5) added, p. 2078, § 14, effective May 22. **L. 2004:** (5)(c) amended, p. 1186, § 2, effective August 4. **L. 2005:** (5)(c) amended, p. 1404, § 24, effective June 6; (5)(c) amended, p. 1439, § 24, effective June 6. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Editor's note: This section was similar to former § 1-7-103 as it existed prior to 1992.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Election held without prior registration of voters is of no force and effect. Where the law requires registration of voters preceding an election, and provides that no one shall be permitted to vote unless he is registered, and no registration is had, the election, where the omission occurs, is of no force and effect, and no one may claim the right to an office as a result thereof. Fish v. Kugel, 63 Colo. 101, 165 P. 249 (1917) (decided under former law).

1-7-104. Affidavits of eligibility.

In any election where the list of registered electors and property owners is not divided by precinct or where an elector's name is not on the list of registered electors or property owners, an affidavit signed by the eligible elector stating that the elector has not previously voted in the election may be required prior to allowing the elector to cast a ballot.

Source: L. 92: Entire article R&RE, p. 733, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1416, § 64, effective July 1. **L. 94:** Entire section amended, p. 1162, § 33, effective July 1. **L. 95:** (2) amended, p. 840, § 58, effective July 1. **L. 96:** Entire section amended, p. 1745, § 40, effective July 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 718, § 60, effective May 10.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-105. Watchers at primary elections.

(1) (a) (I) Each political party participating in a primary election is entitled to have watchers as follows:

(A) In a central count facility, one watcher per central count process, but in any case not less than one watcher for every ten election judges;

(B) During signature verification, one watcher for every four election judges; and

(C) At each voter service and polling center, one watcher or one watcher per voter service and polling center process.

(II) Notwithstanding the provisions of subsection (1)(a)(I) of this section, the number of watchers permitted in a room at one time is subject to space limitations and local safety codes.

(b) The state chair or the chairperson of the county central committee of each political party shall certify the persons selected as watchers on standardized forms provided by the secretary of state and submit the names of the persons selected as watchers to the county clerk and recorder. To the extent possible, the state chair or chairperson shall submit the names by the close of business on the Friday immediately preceding the election.

(2) In addition, candidates for nomination on the ballot of any political party in a primary election are entitled to have no more than one watcher at any one time in each voter service and polling center and watchers at each place where votes are counted in each county in which they are a candidate in accordance with this article 7 and rules promulgated by the secretary of state. Each candidate shall certify the persons appointed as watchers on forms provided by the county clerk and recorder and submit the names of the persons selected as watchers to the county clerk and recorder. To the extent possible, the candidate shall submit the names by the close of business on the Friday immediately preceding the election.

Source: L. 92: Entire article R&RE, p. 733, § 9, effective January 1, 1993. **L. 2007:** Entire section amended, p. 1977, § 22, effective August 3. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1647, § 33, effective June 21. **L. 2023:** Entire section amended, (SB 23-276), ch. 399, p. 2383, § 24, effective June 6.

Editor's note: This section is similar to former § 1-7-202 as it existed prior to 1992.

ANNOTATION

I. General Consideration.

II. Irregularities.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Watchers in Colorado Elections", see 43 Colo. Law. 37 (June 2014).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Designation of poll watchers for political organizations is not required in order to ensure constitutional access to the voting process. Baer v. Meyer, 728 F.2d 471 (10th Cir. 1984).

II. IRREGULARITIES.

The presumption that election officers have faithfully discharged their duties always obtains until the contrary is shown. Londoner v. People ex rel. Barton, 15 Colo. 557, 26 P. 135 (1890); Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932).

And the will of the people should not be defeated by an honest mistake of election officers. Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932).

Moreover, literal compliance with prescribed forms is not required if the spirit of the law is not violated. Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932).

And form should be subservient to substance when no legal voter has been deprived of his vote and no injury of any kind has been done to anyone. Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932).

But where there is a gross disregard of the procedure and formalities required in the conduct of elections, whether permitted by design, through ignorance, or negligence, the returns should be rejected. People v. Lindsey, 80 Colo. 465, 253 P. 465 (1927).

However, it is not necessary that actual fraud should be committed. People v. Lindsey, 80 Colo. 465, 253 P. 465 (1927).

Rather, when it is clearly established that frauds subversive of the purity of the ballot box and tending to nullify the popular will have been perpetrated by the election officers of a precinct, or have been perpetrated by others with their knowledge, connivance, and consent, and the extent of such frauds cannot be disclosed with reasonable certainty, the official returns from the precinct should be thrown out. Londoner v. People ex rel. Barton, 15 Colo. 557, 26 P. 135 (1890); Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932).

However, where the counting officers divulged how the vote stood and left the tally books in an unlocked box, such irregularities did not constitute fraud subversive of the purity of the ballot box and tending to nullify the popular will or such culpable negligence as to render the doings of the election officials unworthy of credence and destroy the integrity of the returns. Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932).

Entire poll ordinarily not rejected. The fact that illegal ballots have been cast, or that other irregularities have taken place, does not ordinarily warrant the rejection of the entire poll. Londoner v. People ex rel. Barton, 15 Colo. 557, 26 P. 135 (1890); Baldauf v. Gunson, 90 Colo. 243, 8 P.2d 265 (1932).

But where it is impossible to separate with reasonable certainty legal from illegal votes, the entire vote should be

rejected. People v. Lindsey, 80 Colo. 465, 253 P. 465 (1927).

1-7-106. Watchers at general and congressional vacancy elections.

(1) Each participating political party or issue committee whose candidate or issue is on the ballot, and each unaffiliated and write-in candidate whose name is on the ballot for a general or congressional vacancy election, is entitled to have watchers as specified in subsection (2) of this section. The chairperson of the county central committee or the state chairperson of each major political party, the county chairperson or other authorized official of each minor political party, the issue committee, or the write-in or unaffiliated candidate shall certify the names of one or more persons selected as watchers on standardized forms provided by the secretary of state and submit the names of the persons selected as watchers to the county clerk and recorder. To the extent possible, the chairperson, authorized official, issue committee, or candidate shall submit the names by the close of business on the Friday immediately preceding the election. The watchers shall surrender the certificates to the election judges at the time they enter the voter service and polling center and are sworn by the judges. This section does not prevent party candidates or county party officers from visiting voter service and polling centers or drop-off locations to observe the progress of voting.

(2) (a) Each participating political party or issue committee whose candidate or issue is on the ballot, and each unaffiliated and write-in candidate whose name is on the ballot for a general or congressional vacancy election, is entitled to have watchers as follows:

(I) In a central count facility, one watcher per central count process, but in any case not less than one watcher for every ten election judges;

(II) During signature verification, one watcher for every four election judges; and

(III) At each voter service and polling center, one watcher per voter service and polling center process.

(b) Notwithstanding the provisions of subsection (2)(a) of this section, the number of watchers permitted in a room at one time is subject to space limitations and local safety codes.

Source: L. 92: Entire article R&RE, p. 733, § 9, effective January 1, 1993. **L. 95:** Entire section amended, p. 862, § 122, effective July 1. **L. 2002:** Entire section amended, p. 1633, § 15, effective June 7. **L. 2007:** Entire section amended, p. 1978, § 23, effective August 3. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 718, § 61, effective May 10. **L. 2023:** Entire section amended, (SB 23-276), ch. 399, p. 2383, § 25, effective June 6.

Editor's note: This section is similar to former § 1-7-104 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Law reviews. For article, "Watchers in Colorado Elections", see 43 Colo. Law. 37 (June 2014).

1-7-107. Watchers at nonpartisan elections.

Candidates for office in nonpartisan elections, and proponents and opponents of a ballot issue, are each entitled to appoint one person to act as a watcher in every polling place in which they are a candidate or in which the issue is on the ballot. The candidates or proponents and opponents shall certify the names of persons so appointed to the designated election official on forms provided by the official and submit the names of the persons selected as watchers to the county clerk and recorder. To the extent possible, the candidate, proponent, or opponent shall submit the names by the close of business on the Friday immediately preceding the election.

Source: L. 92: Entire article R&RE, p. 734, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1416, § 65, effective July 1. **L. 2007:** Entire section amended, p. 1978, § 24, effective August 3.

ANNOTATION

Law reviews. For article, "Watchers in Colorado Elections", see 43 Colo. Law. 37 (June 2014).

1-7-108. Requirements of watchers.

(1) Watchers shall take an oath administered by one of the election judges that they are eligible electors, that their name has been submitted to the designated election official as a

watcher for this election, and that they will not in any manner make known to anyone the result of counting votes until the polls have closed.

(2) Neither candidates nor members of their immediate families by blood, marriage, or civil union to the second degree may be poll watchers for that candidate.

(3) Each watcher shall have the right to maintain a list of eligible electors who have voted, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, to challenge ineligible electors, and to assist in the correction of discrepancies.

(4) (a) A county clerk and recorder or designated election official shall revoke the certificate of a watcher who uses a mobile phone or other electronic device to take or record pictures or video in any polling location or other place where election activities are conducted and where voters' confidential or personally identifiable information is within view.

(b) Nothing in subsection (4)(a) of this section prohibits a watcher from using a phone to send or receive text messages while watching election activities so long as the watcher is not located where personally identifiable information is within view.

Source: L. 92: Entire article R&RE, p. 734, § 9, effective January 1, 1993. **L. 93:** (1) amended, p. 1417, § 66, effective July 1. **L. 2013:** (2) amended, (HB 13-1303), ch. 185, p. 719, § 62, effective May 10. **L. 2023:** (4) added, (SB 23-276), ch. 399, p. 2384, § 26, effective June 6.

Editor's note: This section is similar to former § 1-7-105 as it existed prior to 1992.

Cross references: In 2013, subsection (2) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Law reviews. For article, "Watchers in Colorado Elections", see 43 Colo. Law. 37 (June 2014).

1-7-109. Judges to keep pollbooks. (Repealed)

Source: L. 92: Entire article R&RE, p. 734, § 9, effective January 1, 1993. **L. 99:** (2) amended, p. 162, § 16, effective August 4. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-110. Preparing to vote in person.

(1) (a) When an elector appears in person to vote, a signature card containing the elector's name and residential address, as they appear in the statewide voter registration system created in section 1-2-301, shall be completed. Unless an elector is registering for the first time or updating the elector's voter registration information, the elector shall not be required to provide any information on the signature card in addition to the elector's name, residential address, and signature.

(b) Except as provided in subsection (4) of this section, an eligible elector desiring to vote in person shall show his or her identification as defined in section 1-1-104 (19.5), verify the information that appears on the signature card, sign the signature card, and give the signature card to one of the election judges. An eligible elector who is unable to write may request assistance from one of the election judges, who shall also sign the signature card and witness the eligible elector's mark. The signature card must provide:

> I, ..., affirm under penalty of perjury that I am a United States citizen and an eligible elector; I have been a Colorado resident for at least twenty-two days immediately before this election; I am registered to vote at my sole legal place of residence; I will be at least eighteen years of age on election day; and this is the only ballot I have voted in this election.

(2) If the eligible elector shows his or her identification within the meaning of section 1-1-104 (19.5) and the elector's name is found on the registration list or, where applicable, the property owner's list by the election judge in charge, the judge in charge of the pollbook or list shall enter the eligible elector's name, and the eligible elector shall be allowed to enter the

immediate voting area. Besides the election officials, no more than four electors more than the number of voting booths shall be allowed within the immediate voting area at one time.

(2.5) If the elector's qualification to vote is established by the completion of an affidavit, and if the affidavit contains all of the information required in subsection (1) of this section, then the designated election official shall consider the affidavit the signature card.

(3) The election judges shall return the signed signature cards with other election materials to the designated election official.

(4) An eligible elector who is unable to produce identification may cast a provisional ballot in accordance with article 8.5 of this title.

(5) An eligible elector who does not reside within the county but wishes to vote at a polling location is entitled to receive a ballot or replacement ballot that contains the names of candidates for statewide federal and state offices and statewide ballot issues and ballot questions. The secretary of state shall certify the content of the ballot to the county clerk and recorder.

(6) A registered elector who will not have been a Colorado resident for at least twenty-two days immediately before a presidential general election may cast a provisional ballot, in accordance with article 8.5 of this title 1, that includes only a vote for president and vice president in that general election.

Source: L. 92: Entire article R&RE, p. 735, § 9, effective January 1, 1993. **L. 94:** (2.5) added, p. 1163, § 34, effective July 1. **L. 2003:** (1) and (2) amended and (4) added, p. 1277, § 2, effective April 22. **L. 2004:** (2) amended, p. 1053, § 5, effective May 21; (2) amended, p. 1357, § 16, effective May 28. **L. 2005:** (4) amended, p. 1404, § 25, effective June 6; (4) amended, p. 1439, § 25, effective June 6. **L. 2007:** (1) and (2) amended, p. 1978, § 25, effective August 3. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 719, § 63, effective May 10. **L. 2014:** (1), (2.5), and (3) amended, (SB 14-161), ch. 160, p. 561, § 13, effective May 9. **L. 2019:** (5) added, (HB 19-1278), ch. 326, p. 3028, § 36, effective August 2. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1647, § 34, effective June 21. **L. 2024:** (6) added, (SB 24-210), ch. 468, p. 3251, § 24, effective June 6. **L. 2025:** (5) amended, (SB 25-001), ch. 178, p. 746, § 7, effective August 6.

Editor's note: (1) This section is similar to former § 1-7-107 as it existed prior to 1992.

(2) Amendments to subsection (2) by Senate Bill 04-213 and House Bill 04-1227 were harmonized.

Cross references: (1) For the legislative declaration contained in the 2004 act amending subsection (2), see section 1 of chapter 334, Session Laws of Colorado 2004.

(2) In 2013, subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-7-111. Electors requiring assistance.

(1) (a) If at any election, any registered elector declares to the election judges that, by reason of disability, inability to read or write, or difficulties with the English language, he or she is unable to prepare the ballot or operate the voting device or electronic voting device without assistance, the elector is entitled, upon making a request, to receive the assistance of any one of the election judges or, at the elector's option, any person selected by the eligible elector requiring assistance.

(b) Any person other than an election judge who assists an eligible elector in the precinct in casting his or her ballot shall first complete the following voter assistance self-affirmation form: "I, ..., certify that I am the individual chosen by the elector to assist the elector in casting a ballot. I further certify that I will not in any way attempt to persuade or induce the elector to vote in a particular manner, nor will I cast the elector's vote other than as directed by the elector I am assisting.".

(2) and (3) Repealed.

Source: L. 92: Entire article R&RE, p. 735, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1417, § 68, effective July 1. **L. 96:** (2) amended, p. 1773, § 78, effective July 1. **L. 2000:** (1) amended, p. 1086, § 2, effective May 26. **L. 2004:** (1)(a) amended, p. 1358, § 17, effective May 28. **L. 2007:** (2) amended, p. 1779, § 15, effective June 1. **L. 2012:** (1)(a) and (1)(b) amended, (HB 12-1292), ch. 181, p. 684, § 26, effective May 17. **L. 2013:** (2) amended and (3) repealed, (HB 13-1303), ch. 185, p. 719, § 64, effective May 10. **L. 2014:** (1)(a) and (1)(b) amended and (2) repealed, (SB 14-161), ch. 160, p. 562, § 14, effective May 9.

Editor's note: This section is similar to former § 1-7-108 as it existed prior to 1992.

Cross references: (1) For disclosing or identifying vote, see § 1-13-712.

(2) For the legislative declaration contained in the 2004 act amending subsection (1)(a), see section 1 of chapter 334, Session Laws of Colorado 2004.

(3) In 2013, subsection (2) was amended and subsection (3) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Annotator's note. The following annotations include cases under former provisions similar to this section.

Election returns should be rejected where unauthorized persons were permitted to enter the voting booths with voters to assist them in marking their ballots when no assistance was asked for and no oath of the voter that he needed or desired assistance. People v. Lindsey, 80 Colo. 465, 253 P. 465 (1927).

Person not an election judge may assist. Where a verified statement of contest alleges, as ground for contesting a vote, that the election judges permitted a person who was not an election judge to assist the voter in marking his ballot, the guidelines for assistance of a disabled voter are controlling and the vote is not open to the objection that the voter had been assisted by a person not an election judge. Israel v. Wood, 98 Colo. 495, 56 P.2d 1324 (1936).

1-7-112. Non-English speaking electors - assistance. (Repealed)

Source: L. 92: Entire article R&RE, p. 736, § 9, effective January 1, 1993. **L. 93:** (1) amended, p. 1418, § 69, effective July 1. **L. 2004:** (1)(a) amended, p. 1358, § 18, effective May 28. **L. 2012:** (1)(a) amended, (HB 12-1292), ch. 181, p. 685, § 27, effective May 17. **L. 2014:** Entire section repealed, (SB 14-161), ch. 160, p. 567, § 29, effective May 9.

Editor's note: Prior to its repeal, this section was similar to former § 1-7-109 as it existed prior to 1992.

1-7-113. Influencing electors.

No person who assists an elector as authorized by this title shall seek to persuade or induce the eligible elector to vote in a particular manner.

Source: L. 92: Entire article R&RE, p. 737, § 9, effective January 1, 1993.

1-7-114. Write-in votes.

(1) Eligible electors may cast a write-in vote for a candidate who has filed an affidavit of intent of write-in candidacy pursuant to section 1-4-1101 by writing the name of the person in the blank space provided for write-in candidates on the ballot. Each write-in vote may include a reasonably correct spelling of a given name, an initial or nickname, or both a given name and an initial or nickname, and shall include the last name of the person for whom the vote is intended. Whenever write-in votes are cast, they shall be counted only when the intention of the elector is clearly apparent.

(2) A vote for a write-in candidate shall not be counted unless that candidate is qualified to hold the office for which the elector's vote was cast.

(3) If the elector has cast more votes for an office than he or she is lawfully entitled to cast, by voting for both a candidate appearing on the ballot and a valid write-in candidate, neither of the votes for the office shall be counted.

(4) (a) The designated election official shall make a list of eligible write-in candidates and provide the list to the election judges. The order of the write-in candidates on such list may be determined by the time of filing the affidavit pursuant to section 1-4-1101.

(b) Except as may be required to accommodate a person with a disability, election judges shall not verbally comment on write-in candidates. Upon request of an eligible elector, an election judge may display to the requesting elector the list of eligible write-in candidates provided to the judges by the designated election official. The list shall not be posted nor may the list be taken into a voting booth.

(c) A designated election official may post the list of eligible write-in candidates on the official website of the designated election official.

Source: L. 92: Entire article R&RE, p. 737, § 9, effective January 1, 1993. **L. 93:** (1) amended, p. 1419, § 70, effective July 1. **L. 96:** (4) added, p. 1746, § 41, effective July 1. **L. 2016:** (4)(c) added, (SB 16-142), ch. 173, p. 580, § 45, effective May 18.

Editor's note: This section is similar to former §§ 1-7-309 (3) and 1-7-507 (3) as they existed prior to 1992. For a detailed comparison, see the comparative tables located in the back of the index.

1-7-115. Time in voting area.

Eligible electors shall cast their ballots without undue delay and shall leave the immediate voting area as soon as voting is complete. An eligible elector shall not enter a voting booth already occupied by another eligible elector. An eligible elector shall not occupy a voting booth for longer than the time determined by the secretary of state by rule if all the booths are in use and other eligible electors are waiting to use them. No eligible elector whose name has been entered on the pollbook shall be allowed to reenter the immediate voting area during the election, except an election judge.

Source: L. 92: Entire article R&RE, p. 737, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1766, § 7, effective June 6. **L. 94:** Entire section amended, p. 1163, § 35, effective July 1. **L. 2007:** Entire section amended, p. 1979, § 26, effective August 3.

Editor's note: This section is similar to former § 1-7-304 (3) as it existed prior to 1992.

1-7-116. Coordinated elections - definition.

(1) (a) If more than one political subdivision holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the county clerk and recorder is the coordinated election official and, pursuant to section 1-5-401, shall conduct the elections on behalf of all political subdivisions whose elections are part of the coordinated election, utilizing the mail ballot procedure set forth in article 7.5 of this title. As used in this subsection (1), "political subdivision" includes the state, counties, municipalities, school districts, and special districts formed pursuant to title 32, C.R.S.

(b) Paragraph (a) of this subsection (1) does not apply to any political subdivision that conducts a mail ballot election or an independent mail ballot election, as defined in section 1-13.5-1102, using mail ballot procedures set forth in article 7.5 or 13.5 of this title or the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., as appropriate. As used in this paragraph (b), "political subdivision" means a municipality as defined in section 31-1-101, C.R.S., or a special district as defined in section 1-13.5-103.

(c) A county clerk and recorder is not required to conduct any election using the procedures set forth in article 13.5 of this title.

(d) On and after January 1, 2023, a statutory city or town or home rule municipality may refer a municipal election using instant runoff voting to be conducted as part of a coordinated election in accordance with section 1-7-118. If required by section 1-7-118, a county clerk and recorder shall conduct the election on behalf of the municipality as part of the coordinated

election in accordance with this section and section 1-7-118. Failure to receive the notice required by section 1-7-118 in a timely manner does not prohibit the county clerk and recorder from entering into and performing an intergovernmental agreement to conduct the instant runoff voting election as part of the coordinated election.

(2) The political subdivisions for which the county clerk and recorder will conduct the coordinated election shall enter into an agreement with the county clerk and recorder for the county or counties in which the political subdivision is located concerning the conduct of the coordinated election. The agreement shall be signed no later than seventy days prior to the scheduled election. The agreement shall include but not be limited to the following:

(a) Allocation of the responsibilities between the county clerk and recorder and the political subdivisions for the preparation and conduct of the coordinated election; and

(b) Provision for a reasonable sharing of the actual cost of the coordinated election among the county and the political subdivisions. For such purpose, political subdivisions are not responsible for sharing any portion of the usual costs of maintaining the office of the county clerk and recorder, including but not limited to overhead costs and personal services costs of permanent employees, except for such costs that are shown to be directly attributable to conducting coordinated elections on behalf of political subdivisions. Notwithstanding any other provision of this section, the state's share of the actual costs of the coordinated election shall be governed by the provisions of section 1-5-505.5.

(2.5) Notwithstanding any other provision of this section, the scientific and cultural facilities district's share of the actual costs of the coordinated election shall be governed by the provisions of section 32-13-107 (5), C.R.S.

(3) Notwithstanding the provision for independent mail ballot elections in subsection (1) of this section, the ballot issue notice shall be prepared and mailed in substantial compliance with part 9 of this article 7, and the preparation and mailing thereof shall be made pursuant to an agreement as provided in subsection (2) of this section. An agreement under this subsection (3) may allow the political subdivision to prepare and mail a separate notice.

(4) (Deleted by amendment, L. 94, p. 1163, § 36, effective July 1, 1994.)

(5) If, by one hundred days before the election, a political subdivision has taken formal action to participate in an election that will be coordinated by the county clerk and recorder, the political subdivision shall notify the county clerk and recorder in writing. Failure to receive such notice in a timely manner does not prohibit the county clerk and recorder from entering into and performing an intergovernmental agreement to conduct the coordinated election on behalf of the political subdivision.

Source: L. 92: Entire article R&RE, p. 737, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1419, § 71, effective July 1. **L. 94:** (1), (2)(b), and (4) amended, p. 1163, § 36, effective July 1. **L. 96:** (3) amended, p. 1746, § 42, effective July 1. **L. 99:** IP(2) amended and (5) added, p. 774, § 50, effective May 20. **L. 2000:** (2)(b) amended, p. 656, § 3, effective August 2. **L. 2001:** (5) amended, p. 1003, § 9, effective August 8. **L. 2005:** IP(2) amended, p. 1404, § 26, effective June 6; IP(2) amended, p. 1439, § 26, effective June 6. **L. 2006:** (2.5) added, p. 1779, § 1, effective June 6. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 720, § 65, effective May 10. **L. 2014:** (1) and (5) amended, (HB 14-1164), ch. 2, p. 4, § 3, effective February 18. **L. 2019:** (3) amended, (HB 19-1278), ch. 326, p. 3028, § 37, effective August 2. **L. 2021:** (1)(d) added, (HB 21-1071), ch. 367, p. 2418, § 9, effective July 1, 2022. **L. 2023:** (2)(b) amended, (SB 23-276), ch. 399, p. 2384, § 27, effective July 1, 2024.

Cross references: (1) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-7-117. Joint elections. (Repealed)

Source: L. 92: Entire article R&RE, p. 738, § 9, effective January 1, 1993. **L. 93:** Entire section repealed, p. 1420, § 72, effective July 1.

1-7-118. Ranked voting in a coordinated election - procedure - costs - definition.

(1) On and after January 1, 2023, a municipality located in a single county that takes formal action to conduct an election using instant runoff voting may refer the election to be conducted as part of a coordinated election, as defined in section 1-7-116, by providing written notice to the county clerk and recorder conducting the election at least one hundred days before the election. If the county uses a voting system that is certified by the secretary of state for use in an election using instant runoff voting, the county clerk and recorder shall conduct the election as part of the coordinated election in accordance with this section and section 1-7-116. In addition to the requirements of section 1-7-116 (2), the agreement between the county clerk and recorder and the municipality must include a plan for conducting the voter education campaign required by

section 1-7-1003 (5)(b). The county clerk and recorder conducting the election shall, with input from the municipality, determine the maximum number of choices an elector may rank in accordance with section 1-7-1003 (1).

(2) A municipality that refers an election using instant runoff voting to be conducted as part of a coordinated election shall pay for the reasonable increased costs associated with the use of instant runoff voting in the coordinated election, including but not limited to programming, ballot design, additional voter information and education, and tabulation.

(3) (a) On and after July 1, 2026, a municipality located in more than one county that takes formal action to conduct an election using instant runoff voting may refer the election to be conducted as part of a coordinated election, as defined in section 1-7-116, by providing written notice to each county clerk and recorder conducting the election at least one hundred days before the election. The county clerk and recorder of each such county shall conduct the election as part of the coordinated election only if:

(I) The municipality timely provides the notice required by subsection (1) of this section to each county clerk and recorder;

(II) Each county clerk and recorder uses a voting system that is certified by the secretary of state for use in an election using instant runoff voting; and

(III) The data from the voting systems used by all such counties can be tabulated together in accordance with rules established by the secretary of state in accordance with subsection (5) of this section.

(b) If the requirements of subsection (3)(a) of this section are met, the municipality and the counties shall enter into an agreement concerning the conduct of the election in accordance with section 1-7-116 (2). In addition to the requirements of section 1-7-116 (2), the agreement must:

(I) Include a plan for conducting the voter education campaign required by section 1-7-1003 (5)(b);

(II) Establish the maximum number of choices an elector may rank on the ballot in accordance with section 1-7-1003 (1); and

(III) Adopt procedures for the county canvass boards to reconcile the ballots and certify the abstract of votes for the instant runoff voting election in accordance with rules established by the secretary of state pursuant to subsection (5) of this section.

(c) If the requirements of subsection (3)(a) of this section are not met, the instant runoff voting election shall not be conducted as part of the coordinated election. The municipality may conduct the election in accordance with part 10 of this article 7 or the municipality's charter, as applicable, and the "Colorado Municipal Election Code of 1965", article 10 of title 31.

(4) For each election using instant runoff voting that is conducted as part of a coordinated election:

(a) Each county clerk and recorder conducting the election shall provide the explanation of ranked voting and instructions for electors required by section 1-7-1003 (5)(a); and

(b) If the instant runoff voting election is conducted in multiple counties pursuant to subsection (3)(a) of this section, each county canvass board shall certify the abstract of votes cast and provide tabulation data to the designated election official for the municipality in accordance with rules promulgated by the secretary of state.

(5) On or before April 1, 2023, the secretary of state shall adopt rules concerning the tabulation, reporting, and canvassing of results for a coordinated election using instant runoff voting conducted by a single county. On or before January 1, 2026, the rules must include provisions for an instant runoff voting election conducted by multiple counties.

(6) As used in this section, "municipality" means a statutory city or town or a home rule municipality.

Source: L. 2021: Entire section added, (HB 21-1071), ch. 367, p. 2419, § 10, effective July 1, 2022. **L. 2024:** (5) amended, (SB 24-210), ch. 468, p. 3251, § 25, effective June 6. **L. 2026:** (2) amended, (HB 26-1113), ch. 267, p. 1505, § 45, effective June 1.

1-7-119. Voter service and polling centers - electors - use of mobile phones - printed or written materials.

(1) An elector may take a mobile phone or other electronic device into a voter service and polling center so long as the elector does not make or receive any phone calls, except for calls to or from the multilingual ballot hotline established pursuant to section 1-5-904, or take any pictures or videos other than images of the elector's own person or ballot.

(2) An elector may take printed or written materials of the elector's choice into a voter service and polling center as a resource to read or consult while marking the elector's ballot.

Source: L. 2023: Entire section added, (SB 23-276), ch. 399, p. 2385, § 28, effective June 6. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1506, § 46, effective June 1.

1-7-120. Voter service and polling centers - wait times - reporting.

(1) (a) On election day, a county must measure and record the wait time at each of its voter service and polling centers in accordance with rules adopted by the secretary of state.

(b) Each county must report its wait time data results determined in accordance with subsection (1)(a) of this section to the secretary of state no later than thirty days after the election.

(2) (a) If a county reports wait time data results pursuant to subsection (1)(b) of this section indicating a wait time in excess of one hour at any voter service and polling center, the county must submit a report to the secretary of state no later than ninety days following the election, which report must include the following information for any such voter service and polling center:

(I) The number of electors who used the center in the election;

(II) The number of voting booths provided;

(III) The number of voter check-in stations and the number of election judges staffing those stations;

(IV) The number and status of any ballot marking devices and ballot on demand systems in use;

(V) The number and status of any printers and other equipment in use;

(VI) The number of staff available to assist with the conduct of the election;

(VII) A description of the number and types of back-ups or delays that occurred at the location in the conduct of the election, including the activity involved, time of occurrence, the known, probable, or possible cause of or causal factors that may have contributed to the back-ups or delays, and determination of whether the cause or causal factors are reasonably likely to persist or reoccur at future elections;

(VIII) A remediation plan to avoid or minimize wait times exceeding one hour, which may include a proposal for additional voter service and polling centers or a proposal for the use of new sites for existing centers, additional check-in stations, voting booths, ballot marking devices and ballot on demand systems, printers or other equipment, additional staff or election judges, or changes in the allocation of duties among election judges and staff; and

(IX) A description of the barriers, if any, that may prevent the county from ensuring all future center wait times do not exceed one hour.

(b) Upon receipt of a report pursuant to subsection (2)(a) of this section, the secretary of state shall post the report on the secretary of state's website no later than five days from the date of receipt.

(c) If a county is required to submit a report in accordance with subsection (2)(a) of this section, the county clerk and recorder or designated election official responsible for sending a proposed election plan pursuant to section 1-7.5-105 must incorporate appropriate remediation steps into the plan.

Source: L. 2026: Entire section added, (HB 26-1113), ch. 267, p. 1506, § 47, effective June 1.

PART 2

PRIMARY ELECTIONS

1-7-201. Voting at primary election.

(1) Any registered elector including a preregistrant who is eligible under section 1-2-101 (2)(c), who has declared an affiliation with a political party that is participating in a primary election and who desires to vote for candidates of that party at a primary election shall show identification, as defined in section 1-1-104 (19.5), write the registered elector's name and address on a form available at the voter service and polling center, and give the form to one of the election judges.

(2) If the name is found on the registration list, the election judge having charge of the list shall likewise repeat the elector's name and present the elector with the party ballot of the political party affiliation last recorded.

(2.3) An eligible unaffiliated elector, including a preregistrant who is eligible under section 1-2-101 (2)(c), is entitled to vote in the primary election of a major political party without affiliating with that political party. To vote in a political party's primary election without declaring an affiliation with the political party, any eligible unaffiliated elector shall declare to the election judges the name of the political party in whose primary election the elector wishes to vote. Thereupon, the election judges shall deliver the appropriate party ballot to the elector. In addition, any eligible unaffiliated elector may openly declare to the election judges the name of the political party with which the elector wishes to affiliate and complete the necessary forms. An eligible elector must separately date and sign or date and initial a declaration of affiliation with a political party form in such manner that the elector clearly acknowledges that the affiliation has been properly recorded. Thereupon, the election judges shall deliver the appropriate party ballot to the eligible elector.

(3) Forms completed by eligible electors, as provided in subsection (1) of this section, shall be returned with other election materials to the county clerk and recorder. If no challenges have been made, the forms may be destroyed pursuant to section 1-7-802.

(4) Party ballots shall be cast in the same manner as in general elections. An elector shall not vote for more candidates for any office than are to be elected at the general election as indicated on the ballot.

(5) Instead of voting for a candidate whose name is printed on the party ballot, an elector may cast a write-in vote for any eligible candidate who is a member of the major political party and who has filed an affidavit of intent of write-in candidacy pursuant to section 1-4-1101. When no candidate has been designated by an assembly or by petition, a write-in candidate for nomination by any major political party must receive at least the number of votes at any primary election that is required by section 1-4-801 (2) to become designated as a candidate by petition.

(6) The provisions of subsections (1), (2), and (4) of this section shall not apply to a primary election conducted as a mail ballot election pursuant to article 7.5 of this title.

Source: L. 92: Entire article R&RE, p. 738, § 9, effective January 1, 1993. **L. 94:** (3) amended, p. 1621, § 2, effective May 31. **L. 98:** (1), (2), and (5) amended, p. 259, § 12, effective April 13. **L. 99:** (2) amended, p. 162, § 17, effective August 4. **L. 2003:** (1) amended, p. 1277, § 3, effective April 22; (1) and (2) amended, p. 1313, § 13, effective April 22. **L. 2010:** (6) added, (HB 10-1116), ch. 194, p. 833, § 15, effective May 5. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 720, § 66, effective May 10. **Initiated 2016:** (2) amended and (2.3) added, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2825. **L. 2018:** (2.3) amended, (SB 18-233), ch. 262, p. 1618, § 42, effective May 29. **L. 2019:** (1) and (2.3) amended, (HB 19-1278), ch. 326, p. 3028, § 38, effective August 2. **L. 2024:** (1) amended, (SB 24-210), ch. 468, p. 3251, § 26, effective June 6.

Editor's note: (1) This section is similar to former § 1-7-201 as it existed prior to 1992.

(2) Amendments to subsection (1) by Senate Bill 03-102 and House Bill 03-1142 were harmonized.

(3) This section was amended by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 227,117

Cross references: (1) In 2013, subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-7-202. Count and certification. (Repealed)

Source: L. 92: Entire article R&RE, p. 739, § 9, effective January 1, 1993. **L. 98:** Entire section amended, p. 259, § 13, effective April 13. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: (1) For current procedures in counting ballots, see §§ 1-7-305, 1-7-307, 1-7-309, 1-7-507, and 1-7-508.

(2) In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-203. Accounting forms.

The county clerk and recorder shall furnish each precinct with two sets of accounting forms for each major political party having candidates at the primary election. The forms shall be furnished at the same time and in the same manner as ballots. All accounting forms shall have the proper party designation at the top thereof and shall state the precinct, county, and date of the primary election. The secretary of state shall prescribe the accounting forms to be used.

Source: L. 92: Entire article R&RE, p. 739, § 9, effective January 1, 1993. **L. 98:** Entire section amended, p. 260, § 14, effective April 13.

Editor's note: This section is similar to former § 1-7-204 as it existed prior to 1992.

PART 3

PAPER BALLOTS

1-7-301. Judges open ballot box first.

Immediately before proclamation is made of the opening of the polls, the election judges shall open the ballot box in the presence of those assembled and shall turn it upside down so as to empty it of anything that may be in it and then shall lock it securely. No ballot box shall be reopened until the time for counting the ballots therein.

Source: L. 92: Entire article R&RE, p. 739, § 9, effective January 1, 1993.

Editor's note: This section is similar to former § 1-7-301 as it existed prior to 1992.

1-7-302. Electors given only one ballot.

Election judges shall give to each eligible elector a single ballot after issuing vote credit to the elector in the statewide voter registration system created in section 1-2-301.

Source: L. 92: Entire article R&RE, p. 739, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1420, § 73, effective July 1. **L. 2014:** Entire section amended, (SB 14-161), ch. 160, p. 563, § 15, effective May 9.

Editor's note: This section is similar to former § 1-7-302 as it existed prior to 1992.

1-7-303. Spoiled ballots.

No person, except an election judge as authorized by the designated election official, shall remove any ballot from the polling place or voter service and polling center before the close of the polls. Any eligible elector who spoils a ballot may obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot. The spoiled ballots thus returned shall be immediately canceled and shall be preserved and returned to the designated election official as provided in section 1-7-701. Nothing in this section prohibits an elector from obtaining a replacement ballot pursuant to section 1-7.5-107.

Source: L. 92: Entire article R&RE, p. 740, § 9, effective January 1, 1993. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 720, § 67, effective May 10.

Editor's note: This section is similar to former § 1-7-303 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-304. Manner of voting in person.

(1) Each eligible elector, upon receiving a ballot, shall immediately proceed unaccompanied to one of the voting booths provided. To cast a vote, the eligible elector shall clearly fill the oval, connect the arrow, or otherwise appropriately mark the name of the candidate or the names of the joint candidates of the elector's choice for each office to be filled. In the case of a ballot issue, the elector shall clearly fill the oval, connect the arrow, or otherwise appropriately mark the appropriate place opposite the answer that the elector desires to give.

(2) Each eligible elector who has completed the ballot and is ready to vote shall then leave the voting booth and approach the election judges having charge of the ballot box. The elector shall, in full view of the election judges, deposit it in the ballot box.

Source: L. 92: Entire article R&RE, p. 740, § 9, effective January 1, 1993. **L. 2012:** (1) amended, (HB 12-1292), ch. 181, p. 685, § 28, effective May 17. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 720, § 68, effective May 10.

Editor's note: This section is similar to former § 1-7-304 as it existed prior to 1992.

Cross references: (1) For ballots for general and congressional vacancy elections, see § 1-5-403; for method of counting paper ballots, see § 1-7-307; for ballots improperly marked, see § 1-7-309.

(2) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

A voter is required to express his choice by making an "X" in the space left, for the purpose, opposite the name of the candidate for whom he desires to vote. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

And a cross mark has to be made when voters write in more than one name. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

1-7-305. Counting by counting judges.

(1) In precincts having counting judges, the receiving judges, at 8 a.m., or as soon thereafter as the counting judges request the ballot box, shall deliver to the counting judges the ballot box containing all ballots that have been cast up to that time, and the receiving judges shall then proceed to use the other ballot box furnished for voting. The receiving judges shall open, empty, and lock the alternate ballot box in the manner prescribed in section 1-7-301.

(2) When the counting judges have counted the votes in a ballot box, they shall return the empty ballot box to the receiving judges and exchange it for the box containing ballots cast since taking possession of the first ballot box. The judges shall continue to exchange ballot boxes in the same manner during the day until the polls are closed and shall continue counting until all ballots have been counted.

(3) When an exchange of ballot boxes is made as described in subsection (2) of this section, the receiving judges shall sign and furnish to the counting judges a statement showing the number of ballots that are to be found in each ballot box as indicated by the pollbooks. The counting judges shall then count ballots in the manner prescribed in section 1-7-307.

(4) The governing body may provide a separate room or building for the counting judges but, when ballot boxes are moved from one room or building to another, they shall be under the constant observation of at least one of the counting judges.

Source: L. 92: Entire article R&RE, p. 741, § 9, effective January 1, 1993.

Editor's note: This section is similar to former § 1-7-305 as it existed prior to 1992.

Cross references: For the election judges opening, emptying, and then locking ballot boxes, see §§ 1-7-301 and 1-7-501.

1-7-306. Counting by receiving judges. (Repealed)

Source: L. 92: Entire article R&RE, p. 741, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1420, § 74, effective July 1. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-307. Method of counting paper ballots.

(1) In any county in which a hand count of ballots is used or becomes necessary, as expressly permitted or required by a provision of this title 1, during an initial tabulation, post-election audit, or recount, the designated election official shall count the ballots in the manner prescribed by this section.

(2) Each ballot must be counted by a team of four election judges. One judge must audibly read every mark on the ballot, while a separate judge observes this reading and assists in determining voter intent, when necessary. Two other election judges must each make entries on two separate accounting forms for each audibly read vote. The separate accounting forms must be compared at regular intervals, and any discrepancies noted on the separate forms must be accounted for until an accurate count of all ballots compared can be determined.

(3) The secretary of state may adopt rules in accordance with article 4 of title 24 as necessary to administer and enforce this section.

Source: L. 92: Entire article R&RE, p. 741, § 9, effective January 1, 1993. **L. 93:** (1) amended, p. 1421, § 75, effective July 1. **L. 2026:** Entire section R&RE, (HB 26-1113), ch. 267, p. 1507, § 48, effective June 1.

Editor's note: Prior to its repeal and reenactment in 2026, this section was similar to former § 1-7-307 as it existed prior to 1992.

Cross references: For the form of ballots, see §§ 1-5-407 and 1-7-304 (1); for improperly marked ballots, see § 1-7-309; for penalty for divulging information concerning the count prior to 7:00 p.m., see § 1-13-718.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The intention of the voter, as expressed upon the face of his ballot, has always been regarded as the cardinal principle controlling the count. Under a system providing for balloting like the Australian, it is necessary that certain rules be prescribed to prevent confusion and secure uniformity; by this means the intention of the voter is to be ascertained. Young v. Simpson, 21 Colo. 460, 42 P. 666 (1895); Heiskell v. Landrum, 23 Colo. 65, 46 P. 120 (1896); Rhode v. Steinmetz, 25 Colo. 308, 55 P. 814 (1898); Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900); Wiley v. McDowell, 55 Colo. 236, 133 P. 757 (1913).

So neither the judges of the election nor the courts are authorized to go beyond what the voter has set down upon his ballot to ascertain his intention. Wiley v. McDowell, 55 Colo. 236, 133 P. 757 (1913).

But in order to designate his choice, a voter must use a cross mark as the law requires. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

Hence, where no cross mark is used anywhere with reference to any of the candidates for the particular office in question, the ballots ought not to be counted. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

1-7-308. Judges to keep accounting forms. (Repealed)

Source: L. 92: Entire article R&RE, p. 742, § 9, effective January 1, 1993. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-309. Determination of improperly marked ballots.

(1) Votes cast for an office to be filled or a ballot issue to be decided shall not be counted if an elector marks more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the ballot issue; except that an elector's rankings of multiple candidates in an election using instant runoff voting shall be recorded and counted in accordance with section 1-7-1003 and rules promulgated by the secretary of state.

(2) A defective or an incomplete cross mark on any ballot in a proper place shall be counted if no other cross mark appears on the ballot indicating an intention to vote for some other candidate or ballot issue.

(3) No ballot shall be counted unless it has the official endorsement required by section 1-7-302.

(4) Ballots not counted because of the election judges' inability to determine the elector's intent for all candidates and ballot issues shall be marked "defective" on the back, banded together and separated from the other ballots, returned to the ballot box, and preserved by the designated election official pursuant to section 1-7-801.

(5) When the election judges in any precinct discover in the counting of votes that the name of any write-in candidate voted for is misspelled or omitted in part, the vote for that candidate shall be counted if the writing meets the requirements of section 1-7-114 (1).

Source: L. 92: Entire article R&RE, p. 742, § 9, effective January 1, 1993. **L. 93:** (5) amended, p. 1421, § 76, effective July 1. **L. 2021:** (1) amended, (HB 21-1071), ch. 367, p. 2420, § 11, effective July 1, 2022.

Editor's note: This section is similar to former § 1-7-309 as it existed prior to 1992.

Cross references: For the form of ballots, see §§ 1-5-407 and 1-7-304 (1); for the method of counting paper ballots, see § 1-7-307.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Ballot not rejected if choice can be gathered. Unless the statute declares that a strict compliance with its requirements by

the elector is essential to have his ballot counted, courts will not undertake to disfranchise him by rejecting his ballot where his choice can be gathered from the ballot viewed in the light of the circumstances surrounding the election. Young v. Simpson, 21 Colo. 460, 42 P. 666 (1895).

As where cross mark is before candidates's name. Where a ballot has no mark opposite any party emblem, but is marked with a cross mark to the left and before the candidate's name, it should be counted, although the customary and better practice is to put the cross mark to the right of the name of the candidate intended to be voted for. Young v. Simpson, 21 Colo. 460, 42 P. 666 (1895).

Or slightly to the right of the appropriate square. Where a voter designates his choice by placing a cross mark not in the space prepared for the purpose, but slightly to the right of the square opposite it, the ballot is properly counted. Young v. Simpson, 21 Colo. 460, 42 P. 666 (1895).

Similarly, a ballot should be counted if intent can be ascertained with reasonable certainty. A ballot cast by a qualified elector, at an election held according to law and at the time and place provided by law, should be counted if the intent of the voter can be ascertained with reasonable certainty, unless this is forbidden by some positive provision of statute. Baldwin v. Wade, 50 Colo. 109, 114 P. 399 (1911).

As where name is written in under printed name. In the official ballot of a municipal election the name of A was printed as a candidate; below this, and in the same space, the voter wrote the name of B; and in the space left for this purpose, he placed a cross mark, the intersection of which was not directly opposite either name. Considering that the voter, if he desired to vote for A, had no occasion to insert the name of B, it was held that the ballot must be counted for B. Baldwin v. Wade, 50 Colo. 109, 114 P. 399 (1911).

Or above an obliterated printed name. Where a voter obliterates a printed name with ink and writes in a name above it, placing a cross mark at the right, the ballot should be counted. Baldwin v. Wade, 50 Colo. 109, 114 P. 399 (1911).

Nevertheless, an elector, in order to properly express his choice, must do so substantially in the manner provided by statute. Young v. Simpson, 21 Colo. 460, 42 P. 666 (1895); Heiskell v. Landrum, 23 Colo. 65, 46 P. 120 (1896); Rhode v. Steinmetz, 25 Colo. 308, 55 P. 814 (1898); Wiley v. McDowell, 55 Colo. 236, 133 P. 757 (1913); Bromley v. Hallock, 57 Colo. 148, 140 P. 186 (1914).

Thus a voter must express his choice by making a "X" opposite candidate's name. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

Likewise, voters must make cross marks when they write in more than one name. Where there are several candidates for an office and voters write in the spaces left for this purpose, under the word indicating the office, the names of those persons, among them the name of the

contestor but no cross mark set opposite the contestor's name upon any of these ballots, they are not to be counted for the contestor. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

An indelible pencil may be used. Where a ballot is in perfect form, but the name of the person voted for and the cross marks are written with an indelible pencil, it should be counted. Baldwin v. Wade, 50 Colo. 109, 114 P. 399 (1911).

A voter prohibited from marking more names on a ballot than there are persons to be elected to an office cannot be construed to prohibit only the double marking of eligible candidates for such office. Moran v. Carlstrom, 775 P.2d 1176 (Colo. 1989).

This section and § 1-4-1001 (now § 1-4-1101) do not conflict. This section regulates the conduct of voters and rejects ballots showing more names than persons to be elected to an office whereas § 1-4-1001 (now § 1-4-1101) regulates the conduct of write-in candidates and prohibits the write-in candidate who fails to file an affidavit of intent from accumulating votes. Moran v. Carlstrom, 775 P.2d 1176 (Colo. 1989) (decided prior to 1992 repeal and reenactment of this article).

PART 4

VOTING MACHINES

1-7-401. Judges to inspect machines.

In each voter service and polling center, the election judges shall meet before the time set for the opening of the voter service and polling center on each day of voting at that location. The judges shall carefully examine each electromechanical voting system component and ballot box used in the voter service and polling center to ensure that no seal has been broken.

Source: L. 92: Entire article R&RE, p. 743, § 9, effective January 1, 1993. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 721, § 69, effective May 10. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3252, § 27, effective June 6.

Editor's note: This section is similar to former § 1-7-401 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-402. Sample ballots - ballot labels. (Repealed)

Source: L. 92: Entire article R&RE, p. 743, § 9, effective January 1, 1993. **L. 99:** (2) amended, p. 775, § 51, effective May 20. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 721, § 70, effective May 10. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3252, § 28, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-7-402 as it existed prior to 1992.

1-7-403. Instruction to electors.

In case any elector, after entering the immediate voting area, asks for further instructions concerning the manner of voting, an election judge shall give instructions to the elector. No election judge or other election official or person assisting an elector shall enter the immediate voting area, except as provided in section 1-7-111. After receiving instructions, the elector shall vote as if unassisted.

Source: L. 92: Entire article R&RE, p. 743, § 9, effective January 1, 1993. **L. 2014:** Entire section amended, (SB 14-161), ch. 160, p. 563, § 16, effective May 9.

Editor's note: This section is similar to former § 1-7-403 as it existed prior to 1992.

1-7-404. Judge to inspect voting machine.

No person shall deface or damage any electromechanical voting system component. At such intervals as may be deemed necessary, an election judge shall examine each component to ascertain whether it has been defaced or damaged to ensure that seals are intact and to detect any wrongdoing.

Source: L. 92: Entire article R&RE, p. 744, § 9, effective January 1, 1993. **L. 2023:** Entire section amended, (SB 23-276), ch. 399, p. 2385, § 29, effective June 6.

Editor's note: This section is similar to former § 1-7-404 as it existed prior to 1992.

1-7-405. Seal on voting machine. (Repealed)

Source: L. 92: Entire article R&RE, p. 744, § 9, effective January 1, 1993. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3252, § 29, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-7-405 as it existed prior to 1992.

1-7-406. Close of polls and count - seals. (Repealed)

Source: L. 92: Entire article R&RE, p. 744, § 9, effective January 1, 1993. **L. 94:** Entire section amended, p. 1621, § 3, effective May 31. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 722, § 71, effective May 10. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3252, § 30, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-7-406 as it existed prior to 1992.

1-7-407. Close of polls - primary. (Repealed)

Source: L. 92: Entire article R&RE, p. 744, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1767, § 8, effective June 6. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3253, § 31, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-7-406 (2) as it existed prior to 1992.

ANNOTATION

Where there is a discrepancy between the tally list and the certificate of the judges of election as to the number of votes any candidate received, the certificate only can be considered and cannot be changed by the canvassers by reference to the tally list. People ex rel. Miller v. Tool, 35 Colo. 225, 86 P. 224, 86 P. 229, 86 P. 231, (1905)(decided under former law).

1-7-408. Judges to keep accounting forms. (Repealed)

Source: L. 92: Entire article R&RE, p. 744, § 9, effective January 1, 1993. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

PART 5

ELECTRONIC VOTING EQUIPMENT

1-7-501. Judges open ballot box first.

Immediately before proclamation is made of the opening of the polls, the election judges shall open the ballot box in the presence of those assembled and shall turn it upside down so as to empty it of anything that may be in it and then shall lock it securely. No ballot box shall be reopened until the time for counting the ballots or ballot cards therein.

Source: L. 92: Entire article R&RE, p. 745, § 9, effective January 1, 1993.

Editor's note: This section is similar to former § 1-7-501 as it existed prior to 1992.

1-7-502. Elector given only one ballot or ballot card. (Repealed)

Source: L. 92: Entire article R&RE, p. 745, § 9, effective January 1, 1993. **L. 97:** Entire section amended, p. 185, § 4, effective August 6. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-503. Manner of voting. (Repealed)

Source: L. 92: Entire article R&RE, p. 745, § 9, effective January 1, 1993. **L. 97:** (1) and (2) amended, p. 185, § 5, effective August 6. **L. 2007:** (4) added, p. 1979, § 27, effective August 3. **L. 2012:** (1) amended, (HB 12-1292), ch. 181, p. 685, § 29, effective May 17. **L. 2013:** (4) amended, (HB 13-1303), ch. 185, p. 722, § 72, effective May 10. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3253, § 32, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-7-503 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

A voter is required to express his choice by making an "X" in the space left, for the purpose, opposite the name of the candidate for whom he desires to vote. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

And a cross mark has to be made when voters write in more than one name. Riley v. Trainor, 57 Colo. 155, 140 P. 469 (1914).

1-7-504. Spoiled ballot or ballot card.

In polling locations in which voting is on a ballot or ballot card, no person, except an election judge as authorized by the designated election official, shall remove a spoiled ballot or ballot card from the polling location before the close of the polls. Any eligible elector who spoils a ballot or ballot card may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot or ballot card. The spoiled ballots or ballot cards thus returned

shall be immediately canceled and shall be preserved and returned to the designated election official as provided in section 1-7-701. Nothing in this section prohibits an elector from obtaining a replacement ballot pursuant to section 1-7.5-107.

Source: L. 92: Entire article R&RE, p. 746, § 9, effective January 1, 1993. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 722, § 73, effective May 10.

Editor's note: This section is similar to former § 1-7-504 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-505. Close of polls - security of voting machinery. (Repealed)

Source: L. 92: Entire article R&RE, p. 746, § 9, effective January 1, 1993. **L. 93:** (2) amended, p. 1767, § 9, effective June 6; (2) amended, p. 1421, § 77, effective July 1. **L. 98:** (2) amended, p. 586, § 26, effective April 30. **L. 2013:** (2) and (3) amended, (HB 13-1303), ch. 185, p. 722, § 74, effective May 10. **L. 2018:** (2) and (3) repealed, (SB 18-233), ch. 262, p. 1611, § 21, effective May 29. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3253, § 33, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-7-505 as it existed prior to 1992.

1-7-506. Electronic vote-counting - test. (Repealed)

Source: L. 92: Entire article R&RE, p. 747, § 9, effective January 1, 1993. **L. 95:** (2) amended, p. 840, § 59, effective July 1. **L. 96:** (2) amended, p. 1746, § 43, effective July 1. **L. 2002:** (2) amended, p. 1634, § 16, effective June 7. **L. 2004:** (1)(b) amended, p. 1358, § 19, effective May 28. **L. 2005:** Entire section repealed, p. 1425, § 56, effective June 6; entire section repealed, p. 1461, § 56, effective June 6.

1-7-506.5. Testing of voting systems and tabulating equipment. (Repealed)

Source: L. 2004: Entire section added, p. 1358, § 20, effective May 28. **L. 2005:** Entire section repealed, p. 1425, § 56, effective June 6; entire section repealed, p. 1461, § 56, effective June 6.

1-7-507. Electronic vote-counting - procedure.

(1) All proceedings at the counting centers shall be under the direction of the designated election official and the representatives of the political parties, if a partisan election, or watchers, if a nonpartisan election. No persons, except those authorized for the purpose, shall touch any ballot, ballot card, "prom" or other electronic device, or return.

(2) All persons who are engaged in the processing and counting of the ballots or recorded precinct votes shall be deputized in writing and take an oath that they will faithfully perform their assigned duties.

(3) The return printed by the electronic vote-tabulating equipment, to which have been added write-in votes, shall, when certified by the designated election official, constitute the official return of each precinct. The designated election official may, from time to time, release unofficial returns. Upon completion of the count, the official returns shall be open to the public.

(4) and (5) Repealed.

(6) If a software or hardware malfunction, or other significant issue, makes it impracticable to count all or a part of the ballots with electronic vote-tabulating equipment, the secretary of state, after consultation with the designated election official, may permit the designated election official to direct that such ballots be counted manually, following as far as practicable the provisions governing the counting of paper ballots as provided in section 1-7-307.

(7) The receiving, opening, and preservation of the transfer boxes and their contents shall be the responsibility of the designated election official, who shall provide adequate personnel and facilities to assure accurate and complete election results. Any indication of tampering with the ballots, ballot card, or other fraudulent action shall be immediately reported to the district attorney, who shall immediately investigate the action and report the findings in writing within ten days to the designated election official and shall prosecute to the full extent of the law any person or persons responsible for the fraudulent action.

(8) Repealed. / (Deleted by amendment, L. 2004, p. 1359, § 21, effective January 1, 2006.)

Source: L. 92: Entire article R&RE, p. 748, § 9, effective January 1, 1993. **L. 2004:** (7) and (8) amended and (8) repealed, pp. 1359, 1361, 1213, §§ 21, 30, 31, 108, effective January 1, 2006. **L. 2007:** (4) amended, p. 1779, § 16, effective June 1. **L. 2013:** (5) amended and (4) repealed, (HB 13-1303), ch. 185, p. 723, § 75, effective May 10. **L. 2022:** (6) amended, (SB 22-153), ch. 322, p. 2281, § 12, effective June 2. **L. 2024:** (5) repealed, (SB 24-210), ch. 468, p. 3253, § 34, effective June 6. **L. 2026:** (6) amended, (HB 26-1113), ch. 267, p. 1507, § 49, effective June 1.

Editor's note: This section is similar to former § 1-7-507 as it existed prior to 1992.

Cross references: (1) For counting procedure for paper ballots, see § 1-7-307.

(2) For the legislative declaration contained in the 2004 act amending subsections (7) and (8) and repealing subsection (8), see section 1 of chapter 334, Session Laws of Colorado 2004.

(3) In 2013, subsection (5) was amended and subsection (4) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(4) For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-7-508. Determination of improperly marked ballots.

(1) If any ballot is damaged or defective so that it cannot properly be counted by the electronic vote-counting equipment, a true duplicate copy shall be made of the damaged ballot by a bipartisan team of election judges. The duplicate ballot shall be substituted for the damaged ballot. Every duplicate ballot shall be clearly labeled as such and shall bear a serial number which shall be recorded on the damaged ballot.

(2) Votes cast for an office to be filled or a ballot question or ballot issue to be decided shall not be counted if a voter marks more names than there are persons to be elected to an office or if for any reason it is impossible to determine the elector's choice of candidate or vote concerning the ballot question or ballot issue; except that an elector's rankings of multiple candidates in an election using instant runoff voting shall be recorded and counted in accordance with section 1-7-1003 and rules promulgated by the secretary of state. A defective or an incomplete mark on any ballot in a proper place shall be counted if no other mark is on the ballot indicating an intention to vote for some other candidate or ballot question or ballot issue.

(3) No ballot shall be counted unless it has the official endorsement required by section 1-5-407 (1).

(4) Ballots not counted because of the election judges' inability to determine the elector's intent for all candidates and ballot issues shall be marked "defective" on the back, banded together, separated from the other ballots, and preserved by the designated election official pursuant to section 1-7-801.

Source: L. 92: Entire article R&RE, p. 749, § 9, effective January 1, 1993. **L. 2004:** (2) amended, pp. 1359, 1213, §§ 22, 108, effective January 1, 2006. **L. 2012:** (3) amended, (HB 12-1292), ch. 181, p. 686, § 30, effective May 17. **L. 2021:** (2) amended, (HB 21-1071), ch. 367, p. 2421, § 12, effective July 1, 2022. **L. 2023:** (1) amended, (SB 23-276), ch. 399, p. 2385, § 30, effective June 6.

Cross references: For the legislative declaration contained in the 2004 act amending subsection (2), see section 1 of chapter 334, Session Laws of Colorado 2004.

1-7-509. Electronic and electromechanical vote counting - testing of equipment required - rules.

(1) (a) An electronic or electromechanical voting system shall be tested at the conclusion of maintenance and testing. The tests shall be sufficient to determine that the voting system is properly programmed, the election is correctly defined on the voting system, and all of the voting system's input, output, and communication devices are working properly.

(b) The designated election official shall conduct at least three tests on all electronic and electromagnetic voting equipment, including a hardware test, a public logic and accuracy test conducted in accordance with subsection (2) of this section, and a postelection test or audit conducted in accordance with rules promulgated by the secretary of state. Each type of ballot, including mail, provisional, and audio ballots, shall be tested in accordance with rules promulgated by the secretary of state. The tests must ensure that the equipment will correctly count the votes cast for all offices and on all ballot questions and ballot issues and that the voting system will accurately count ballots of all types.

(c) (I) For all partisan elections, the designated election official shall select a testing board comprising at least two persons, one from each major political party, from the list provided by the major political parties pursuant to section 1-6-102.

(II) For all nonpartisan elections, the designated election official or coordinated election official, as applicable, shall select a testing board comprising at least two persons who are registered electors.

(III) Repealed.

(2) (a) A public test of voting equipment shall be conducted prior to the commencement of voting in accordance with this section by processing a preaudited group of ballots produced so as to record a predetermined number of valid votes for each candidate and on each ballot question or ballot issue. The test shall ensure that the system accurately records votes when the elector has the option of voting for more than one candidate in a race. The test shall ensure that the voting system properly rejects and does not count overvotes and undervotes. If the equipment is to be used in an election using instant runoff voting, the test shall ensure that the voting system accurately records, counts, and tabulates an elector's rankings of multiple candidates in accordance with section 1-7-1003 and rules promulgated by the secretary of state.

(b) The public test shall be open to representatives of the political parties, the press, and the public, subject to the rules promulgated by the secretary of state pursuant to subsection (6) of this section. Each major political party, minor political party, ballot issue committee that has an issue on the ballot, and coordinating entity may designate one person, who shall be allowed to witness all public tests and the counting of pretest votes. If an observer or designee hinders or disturbs the test process, the designated election official may remove the person from the test area. An observer or designee who has been removed from a public test may be barred from future tests. The absence of observers or designees shall not delay or stop the public test.

(c) The testing board shall convene and designate at least one member to represent the board during the testing, sign the necessary reports, and report to the board. The programs and ballots used for testing shall be attested to and sealed by the board and retained in the custody of the designated election official. The absence of a member of the testing board shall not delay or stop the test.

(d) Upon completion of the testing conducted pursuant to this section, the testing board or its representative and the representatives of the political parties, ballot issue committees, and coordinating entities who attended the test may witness the resetting of each device that passed the test to a preelection state of readiness and the sealing of each such device in order to secure its state of readiness.

(e) The testing board or its representative shall sign a written statement indicating the devices tested, the results of the testing, the protective counter numbers of each device, if applicable, the number of the seal attached to each device upon completion of the testing, any problems reported to the designated election official as a result of the testing, and whether each device tested is satisfactory or unsatisfactory.

(3) Notice of the fact that the public test will take place shall be posted in the designated public place for posting notices in the county for at least seven days before the public test. The notice shall indicate the general time frame during which the test may take place and the manner in which members of the public may obtain specific information about the time and place of the test. Nothing in this subsection (3) shall preclude the use of additional methods of providing information about the public test to members of the public.

(4) (a) If any tested device is found to have an error in tabulation, it shall be deemed unsatisfactory. For each device deemed unsatisfactory, the testing board shall attempt to determine the cause of the error, attempt to identify and test other devices that could reasonably be expected to have the same error, and test a number of additional devices sufficient to determine that all other devices are satisfactory. The cause of any error detected shall be corrected, and an errorless count shall be made before the voting equipment is approved. The test shall be repeated and errorless results achieved before official ballots are counted.

(b) If an error is detected in the operation or output of an electronic voting device, including an error in spelling or in the order of candidates on a ballot, the problem shall be reported to the testing board and the designated election official. The designated election official shall correct the error.

(c) A voting device deemed unsatisfactory shall be recoded, repaired, or replaced and shall be made available for retesting unless a sufficient number of tested backup devices is available to replace the unsatisfactory device. The backup device may not be used in the election unless the testing board or its representative determines that the device is satisfactory. The designated election official shall announce at the conclusion of the first testing the date, place, and time that an unsatisfactory device will be retested, or, at the option of the testing board, the designated election official shall notify by telephone each person who was present at the first testing of the date, place, and time of the retesting.

(5) The designated election official shall keep records of all previous testing of electronic and electromechanical tabulation devices used in any election. Such records shall be available for inspection and reference during public testing by any person in attendance. The need of the testing board for access to such records during the testing shall take precedence over the need of other attendees for access so that the work of the testing board will not be hindered. Records of testing shall include, for each device, the name of the person who tested the device and the date, place, time, and results of each test. Records of testing shall be retained as part of the official records of the election in which the device is used.

(6) The secretary of state shall promulgate rules in accordance with article 4 of title 24 prescribing the manner of performing the logic and accuracy testing required by this section. On or before April 1, 2023, the rules promulgated in accordance with this subsection (6) must include standards and procedures for conducting logic and accuracy testing on voting equipment to be used in an election using instant runoff voting.

Source: L. 2005: Entire section added, p. 1404, § 27, effective June 6; entire section added, p. 1439, § 27, effective June 6. **L. 2007:** (1)(b) amended, p. 1779, § 17, effective June 1. **L. 2010:** (1)(c) amended, (HB 10-1116), ch. 194, p. 833, § 16, effective May 5. **L. 2012:** (1)(c)(III) added, (HB 12-1292), ch. 181, p. 686, § 31, effective May 17. **L. 2013:** (1)(b) amended, (HB 13-1303), ch. 185, p. 723, § 76, effective May 10. **L. 2021:** (2)(a) and (6) amended, (HB 21-1071), ch. 367, p. 2421, § 13, effective July 1, 2022.

Editor's note: Subsection (1)(c)(III)(B) provided for the repeal of subsection (1)(c)(III), effective January 1, 2015. (See L. 2012, p. 686.)

Cross references: In 2013, subsection (1)(b) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-510. Election software code - escrow - definition.

(1) As used in this section, unless the context otherwise requires, "election setup records" means the electronic records generated by election tabulation software during election setup to define ballots, tabulation instructions, and other functions related to the election.

(2) At the conclusion of programming and after it has been determined that a voting system is in proper working order and ready for voting, the designated election official shall deposit a copy of the election setup records for a county, statewide, or congressional vacancy election with the secretary of state no later than 5:00 p.m. on the seventh day before the election.

(3) If the election setup records are modified or altered after they are submitted to the secretary of state, the designated election official shall immediately report the change to the secretary of state and deposit the modified election setup records with the secretary of state no later than noon on the day of the election.

(4) The secretary of state shall retain election setup records as an election record. The designated election official shall retain the election setup records for the period of time for which the designated election official is required to retain official election records.

(5) Election setup records deposited with the secretary of state shall not be used for any purpose, except as directed by the secretary of state or ordered by a court. The tape, diskette, cartridge, or other magnetic or electronic storage medium containing election setup records

deposited with the secretary of state shall be kept in a secure location when not being used for an official purpose in accordance with this subsection (5).

(6) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., to implement this section.

(7) Notwithstanding any other provision of law, election setup records deposited with the secretary of state pursuant to this section shall not be public records for purposes of article 72 of title 24, C.R.S.

Source: L. 2005: Entire section added, p. 1406, § 27, effective June 6; entire section added, p. 1442, § 27, effective June 6. **L. 2023:** (4) amended, (SB 23-276), ch. 399, p. 2386, § 31, effective June 6.

1-7-511. Election software - voting equipment providers - escrow - definition.

(1) When a voting system provider submits an electronic or electromechanical voting system for certification pursuant to part 6 of article 5 of this title, the voting system provider shall place in escrow with the secretary of state or an independent escrow agent approved by the secretary of state one copy of the election software being certified and supporting documentation. The voting system provider shall place in escrow any subsequent changes to the escrowed election software or supporting documentation.

(2) An officer of the voting system provider with legal authority to bind the voting system provider shall sign a sworn affidavit that the election software in escrow is the same as the election software being used in its voting systems in this state. The officer shall ensure that the statement is true on a continuing basis.

(3) As an additional requirement for certification, the voting system provider shall deposit one copy of the election software with the national software reference library at the national institute of standards and technology.

(4) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner and procedures that voting system providers shall follow to comply with this section.

(5) As used in this section, unless the context otherwise requires, "election software" means the software to be installed or residing on election equipment firmware or on election management computers that controls election setup, vote recording, vote tabulation, and reporting.

(6) Notwithstanding any other provision of law, election software and supporting documentation placed in escrow in accordance with this section shall not be public records for purposes of article 72 of title 24, C.R.S.

Source: L. 2005: Entire section added, p. 1407, § 27, effective June 6; entire section added, p. 1442, § 27, effective June 6.

1-7-512. Voting system providers - duties - definition.

(1) A voting system provider under contract to provide a voting system to a political subdivision in this state shall:

(a) Coordinate with the secretary of state to support the installation of any hardware, firmware, or software or of any change in the election software in any component of the voting system;

(b) Place in escrow with the secretary of state or an independent escrow agent approved by the secretary of state one copy of the state certified election software along with supporting documentation;

(c) Place in escrow with the secretary of state or independent escrow agent any subsequent changes to the escrowed election software or supporting documentation;

(d) Provide to the secretary of state a sworn statement by an officer of the voting system provider with legal authority to bind the voting system provider attesting that the election software in escrow is the same as the election software certified for use in its voting systems in this state, and ensure that the statement is true on a continuing basis;

(e) Notify the secretary of state and the designated election official of any political subdivision using its voting system of any defect in the same system known to occur anywhere; and

(f) Notify the secretary of state and the designated election official of any political subdivision using its voting system of any change in the election software or the voting system.

(2) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., establishing procedures for voting system providers to comply with this section.

(3) As used in this section, unless the context otherwise requires, "election software" means the software to be installed or residing on election equipment firmware or on election management computers that controls election setup, vote recording, vote tabulation, and reporting.

Source: L. 2005: Entire section added, p. 1408, § 27, effective June 6; entire section added, p. 1443, § 27, effective June 6. **L. 2023:** (1)(c) amended, (SB 23-276), ch. 399, p. 2386, § 32, effective June 6. **L. 2024:** (1)(a) and (1)(b) amended, (SB 24-210), ch. 468, p. 3254, § 35, effective June 6.

1-7-513. Voting equipment - records.

(1) The designated election official shall maintain separate, detailed records for each component of a voting system used in an election. Such records shall include, but not be limited to, the manufacturer, make, model, serial number, hardware, firmware, software version or release number, date of acquisition, description of services, repairs, maintenance, upkeep, and version upgrades, and date of performance of such services.

(2) The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., prescribing the manner of maintenance of records required by this section.

Source: L. 2005: Entire section added, p. 1409, § 27, effective June 6; entire section added, p. 1444, § 27, effective June 6.

1-7-513.5. Voting equipment - security.

(1) Except as otherwise provided in subsection (5) of this section, no later than June 30, 2023, the designated election official shall keep all components of a voting system in a location where entry is controlled by use of a key card access system. The designated election official shall ensure that the log created by the system is maintained as an election record for twenty-five months following the date of any entry.

(2) Except as otherwise provided in subsection (5) of this section, no later than June 30, 2023, the designated election official shall keep all components of a voting system under video security surveillance recording. The designated election official shall ensure that video captured beginning sixty days before through thirty days after an election in which the voting system is used is maintained as an election record for twenty-five months following the election. The designated election official shall ensure that video captured outside this period is maintained for twenty-five months following the date the video was captured.

(3) The designated election official is not required to follow the requirements of subsections (1) and (2) of this section when voting system components are deployed for use or stored at a voting service and polling center.

(4) A county clerk may apply to the secretary of state for a waiver of the requirements of subsection (1) of this section based on historical building status or similar physical limitations. If the secretary finds the clerk has provided an alternative equivalent physical security system for components of a voting system, the secretary of state may grant the waiver.

(5) If the designated election official is unable to satisfy the requirements of subsections (1) and (2) of this section by June 30, 2023, due to delays in the delivery of necessary equipment that are out of the control of the designated election official, the designated election official shall notify and provide proof of the delay to the secretary of state, and the designated election official is required to satisfy the requirements of subsections (1) and (2) of this section as soon as practicable.

(6) The secretary of state may promulgate rules necessary for the implementation of this section in accordance with article 4 of title 24.

(7) (a) For the 2022-23 state fiscal year, the general assembly shall appropriate:

(I) One million dollars from the general fund to the department of state to administer a grant program, which is hereby created and consists of such general fund appropriation, to provide assistance to counties in complying with the security requirements of the "Colorado Election Security Act"; and

(II) One hundred seventeen thousand dollars from the department of state cash fund to the department of state to assist the state and counties with assessing potential risks to the proper administration of elections.

(b) For the 2023-24 state fiscal year and each state fiscal year thereafter, the general assembly shall make appropriations from the department of state cash fund to the department of state for the purpose of assisting the state and counties with assessing potential risks to the proper administration of elections.

Source: L. 2022: Entire section added, (SB 22-153), ch. 322, p. 2281, § 13, effective June 2.

Cross references: For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-7-514. Random audit.

(1) (a) (I) Except as otherwise provided in subsection (6) of this section, following each primary, general, coordinated, or congressional district vacancy election, the secretary of state shall publicly initiate a manual random audit to be conducted by each county. Unless the

secretary approves an alternative method for a particular county that is based on a proven statistical sampling plan and will achieve a higher level of statistical confidence, the secretary shall randomly select not less than five percent of the voting devices used in each county to be audited; except that, where a central count voting device is in use in the county, the rules promulgated by the secretary pursuant to subsection (5) of this section shall require an audit of a specified percentage of ballots counted within the county.

(II) For an election taking place in a county prior to the date the county has satisfied the requirements of section 1-5-802, the audit shall be for the purpose of comparing the manual tallies of the ballots counted by each voting device selected for each such audit with the corresponding tallies recorded directly by each such device.

(III) For an election taking place in a county on or after the date the county has satisfied the requirements of section 1-5-802, the audit shall be conducted for the purpose of comparing the manual tallies of the voter-verified paper records produced or employed by each voting device selected for such audit with the corresponding ballot tallies recorded directly by each such device in the original election tally.

(b) To the extent practicable, no voting device that is used for the random audit required by paragraph (a) of this subsection (1) shall be used for conducting the testing of voting devices for recount purposes required by section 1-10.5-102 (3)(a).

(2) (a) Upon completion of the audit required by subsection (1) of this section, if there is any discrepancy between the manual tallies, as specified in accordance with the requirements of subparagraph (II) or (III) of paragraph (a) of subsection (1) of this section, as applicable, of the voting device selected for the audit, and the corresponding tallies recorded by such devices, and the discrepancy is not able to be accounted for by voter error, the county clerk and recorder, in consultation with the canvass board of the county established pursuant to section 1-10-101, shall investigate the discrepancy and shall take such remedial action as necessary in accordance with its powers under this title.

(b) Upon receiving any written complaint from a registered elector from within the county containing credible evidence concerning a problem with a voting device, the canvass board along with the county clerk and recorder shall investigate the complaint and take such remedial action as necessary in accordance with its powers under this title.

(c) The canvass board and the county clerk and recorder shall promptly report to the secretary of state a description of the audit process undertaken, including any initial, interim, and final results of any completed audit or investigation conducted pursuant to paragraph (a) or (b) of this subsection (2).

(3) The secretary of state shall post the reports of any completed audit or investigation received pursuant to paragraph (c) of subsection (2) of this section on the official website of the department of state not later than five business days after receiving the results of the completed

audit or investigation. The clerk and recorder of the affected county may timely post the results of the completed audit or investigation on the official website of the county.

(4) Any audit conducted in accordance with the requirements of this section shall be observed by at least two members of the canvass board of the county.

(5) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to provide guidance to the counties in conducting any audit required by this section. The rules shall account for:

(a) The number of ballots cast in the county;

(b) An audit of each type of voting device utilized by the county;

(c) The confidentiality of the ballots cast by the electors; and

(d) An audit of the voting on each office, ballot issue, and ballot question in the election.

(6) This section applies only if the secretary of state determines that a risk-limiting audit, as described in section 1-7-515, cannot be performed.

Source: L. 2005: Entire section added, p. 1409, § 27, effective June 6; entire section added, p. 1444, § 27, effective June 6. **L. 2007:** (1)(a)(I), (1)(a)(III), (2)(c), and (3) amended and (5)(d) added, pp. 1979, 1980, §§ 28, 29, effective August 3. **L. 2009:** (3) amended, (HB 09-1335), ch. 260, p. 1194, § 11, effective May 15. **L. 2016:** (3) amended, (SB 16-142), ch. 173, p. 580, § 46, effective May 18. **L. 2024:** (1)(a)(I) amended and (6) added, (SB 24-210), ch. 468, p. 3254, § 36, effective June 6.

1-7-515. Risk-limiting audits - rules - legislative declaration - definitions.

(1) (a) The general assembly hereby finds, determines, and declares that the auditing of election results is necessary to ensure effective election administration and public confidence in the election process. Further, risk-limiting audits provide a more effective manner of conducting audits than traditional audit methods in that risk-limiting audit methods typically require only limited resources for election races with wide margins of victory while investing greater resources in close races.

(b) By enacting this section, the general assembly intends that the state move toward an audit process that is developed with the assistance of statistical experts and that relies upon risk-limiting audits making use of best practices for conducting such audits.

(2) (a) Following each primary, general, coordinated, recall, or congressional vacancy election, each county shall make use of a risk-limiting audit in accordance with the requirements of this section. Races to be audited must be selected in accordance with procedures established by the secretary of state, and all contested races are eligible for such selection.

(b) (Deleted by amendment, L. 2021.)

(3) Repealed.

(4) (a) The secretary of state shall promulgate rules in accordance with article 4 of title 24 as may be necessary to implement and administer the requirements of this section. In connection with the promulgation of the rules, the secretary shall consult recognized statistical experts, equipment vendors, and county clerk and recorders, and shall consider best practices for conducting risk-limiting audits.

(b) (I) On or before January 1, 2026, the secretary of state shall promulgate rules in accordance with article 4 of title 24 as necessary to conduct risk limiting audits in an election using instant runoff voting. In connection with the promulgation of the rules, the secretary shall consult recognized statistical experts, equipment vendors, and county clerk and recorders, and shall consider best practices for conducting risk-limiting audits. The secretary of state may consult with additional auditing experts.

(II) A county shall audit an election using instant runoff voting conducted as part of a coordinated election before January 1, 2026, in accordance with rules adopted by the secretary of state related to ranked choice or instant runoff voting, or, if no such rules are adopted, in accordance with procedures adopted by the county clerk and recorder.

(5) As used in this section:

(a) "Incorrect outcome" means an outcome that is inconsistent with the election outcome that would be obtained by conducting a full recount.

(b) "Risk-limiting audit" means an audit protocol that makes use of statistical methods and is designed to limit to acceptable levels the risk of certifying a preliminary election outcome that constitutes an incorrect outcome.

Source: L. 2009: Entire section added, (HB 09-1335), ch. 260, p. 1195, § 12, effective May 15. **L. 2013:** (2) amended and (3) repealed, (HB 13-1303), ch. 185, p. 723, § 77, effective May 10. **L. 2021:** (2) amended, (SB 21-250), ch. 282, p. 1648, § 35, effective June 21; (4) amended, (HB 21-1071), ch. 367, p. 2421, § 14, effective July 1, 2022. **L. 2022:** (4)(b)(II) amended, (SB 22-212), ch. 421, p. 2963, § 3, effective August 10. **L. 2024:** (4)(b) amended, (SB 24-210), ch. 468, p. 3254, § 37, effective June 6.

Cross references: In 2013, subsection (2) was amended and subsection (3) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

PART 6

ELECTION RETURNS

1-7-601. Judges' certificate and statement.

(1) As soon as all the votes have been read and counted, either at the precincts or at the electronic balloting counting centers, the election judges shall make a certificate for each precinct, stating the name of each candidate, the office for which that candidate received votes, and stating the number of votes each candidate received. The number shall be expressed in numerical figures. The entry shall be made, as nearly as circumstances will permit, in the following form:

> At an election held ....., in precinct ....., in the county of ..... and state of Colorado, on the ..... day of ..... in the year ....., the following named candidates received the number of votes annexed to their respective names for the following described offices: Total number of ballots or votes cast was ..... A.B. and E.F. had 72 votes for governor and lieutenant governor; C.D. and G.H. had 69 votes for governor and lieutenant governor; J.K. had 68 votes for representative in congress; L.M. had 70 votes for representative in congress; N.O. had 72 votes for state representative; P.Q. had 71 votes for state representative; R.S. had 84 votes for sheriff; T.W. had 60 votes for sheriff; (and the same manner for any other persons voted for).

Certified by us:

A.B.)

C.D.)

E.F.) Election Judges

(1.5) In addition to the information required by subsection (1) of this section, the certificate prepared by the election judges for each precinct shall state the ballot title and submission clause of any ballot issue or ballot question voted upon in the election and the number of votes counted for and against the ballot issue or ballot question.

(2) In addition, the election judges shall make a written statement showing the number of ballots voted, making a separate statement of the number of unofficial and substitute ballots voted, the number of ballots delivered to electors, the number of spoiled ballots, the number of ballots not delivered to electors, and the number of ballots returned, identifying and specifying the same. All unused ballots, spoiled ballots, and stubs of ballots voted shall be returned with the statement.

(3) Any judges' certificates and statements may be combined into one document if so directed by the designated election official.

Source: L. 92: Entire article R&RE, p. 750, § 9, effective January 1, 1993. **L. 93:** (3) added, p. 1422, § 78, effective July 1. **L. 2007:** (1) amended and (1.5) added, p. 1980, § 30, effective August 3.

Editor's note: This section is similar to former § 1-7-310 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The judges are required to make a certificate in such form that it could not be changed except it would show evidence of having been tampered with. People ex rel. Miller v. Tool, 35 Colo. 225, 86 P. 224, 86 P. 229, 86 P. 231 (1905).

Therefore, tally sheets are insufficient to contradict certificates. In the face of this section it certainly was not the purpose of the general assembly to allow mere tally sheets, which are not certified, contain nothing more than strokes of pen or pencil with respect to the number of votes cast for any candidate, and can be readily changed, to be taken as evidence sufficient to contradict the certificates in case of a discrepancy between such certificates and the tally sheets. People ex rel. Miller v. Tool, 35 Colo. 225, 86 P. 224, 86 P. 229, 86 P. 231 (1905).

Furthermore, irregularities committed by judges of election in the certification of their returns do not invalidate the returns unless they are in such a state as to render it impossible to ascertain therefrom the vote and for whom cast. Lehman v. Pettingell, 39 Colo. 258, 89 P. 48 (1907).

And such returns must be canvassed and certified by the canvassing board. Lehman v. Pettingell, 39 Colo. 258, 89 P. 48 (1907).

Hence, where the judges did not receive the pollbooks required in time for use on election day and thereupon kept a list of the voters and made a tally of the votes on sample ballots, and the judges, after certifying to the result of the election, although not in the manner and form prescribed, delivered the returns to the county clerk within a few days after election, but the board of canvassers refused to count and canvass said returns, although no other returns were received from that precinct, solely because the certificates and oaths were not in the form and the returns upon the proper blanks, such irregularities did not invalidate the returns, and it further appearing that the precinct judges in good faith undertook to certify the true result of the precinct election and that the result could be ascertained therefrom, it became the duty of the board to canvass such returns and to issue certificates in accordance with the result. Lehman v. Pettingell, 39 Colo. 258, 80 P. 48 (1907).

Injunction lies to prevent judges of election from committing or permitting fraud. The state upon the relation of the attorney general may invoke the powers of the supreme court for a writ of injunction to prevent the judges of election and other officers in control of an election from committing, and from permitting others to commit, frauds at elections and to secure a judicial enforcement of the statutes relating to elections so as to prevent the perpetration of such frauds. People ex rel. Miller v. Tool, 35 Colo. 225, 86 P. 224, 86 P. 229, 86 P. 231 (1905).

Such questions being purely judicial and not political. People ex rel. Miller v. Tool, 35 Colo. 225, 86 P. 224, 86 P. 229, 86 P. 231 (1905).

1-7-602. Judges to post returns. (Repealed)

Source: L. 92: Entire article R&RE, p. 750, § 9, effective January 1, 1993. **L. 2004:** Entire section amended, p. 1359, § 23, effective May 28. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-603. Alternative preparation of election returns - procedures.

If any designated election official wishes to count the votes cast at a location or by a method other than authorized by this code, the designated election official may present a plan, for approval by the secretary of state, that delineates the process for assuring accuracy and confidentiality of counting. The plan shall be submitted to the secretary of state and approved no later than forty-five days before the election at which the plan is to be implemented.

Source: L. 93: Entire section added, p. 1422, § 79, effective July 1. **L. 99:** Entire section amended, p. 775, § 52, effective May 20.

PART 7

DELIVERY OF ELECTION RETURNS

1-7-701. Delivery of election returns, ballot boxes, and other election papers.

When all the votes have been read and counted, the election judges selected in accordance with section 1-6-109.5 shall deliver to the designated election official the certificate and statement required by section 1-7-601, ballot boxes and all keys to the boxes, paper tapes, "proms" or other electronic devices, the registration records, pollbooks, accounting forms, spoiled ballots, unused ballots, ballot stubs, oaths, affidavits, and other election papers and supplies. The delivery must be made at once and with all convenient speed, and informality in the delivery does not invalidate the vote of any precinct when delivery has been made previous to the completion of the official abstract of the votes by the board of canvassers. The designated election official shall give a receipt for all items delivered.

Source: L. 92: Entire article R&RE, p. 751, § 9, effective January 1, 1993. **L. 98:** Entire section amended, p. 586, § 27, effective April 30. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 581, § 47, effective May 18.

Editor's note: This section is similar to former § 1-7-601 as it existed prior to 1992.

PART 8

PRESERVATION OF BALLOTS AND ELECTION RECORDS

1-7-801. Ballots preserved.

The designated election official shall remove the ballots from the ballot box after the time period for election contests has passed and preserve the ballots as election records pursuant to section 1-7-802.

Source: L. 92: Entire article R&RE, p. 751, § 9, effective January 1, 1993. **L. 93:** Entire section R&RE, p. 1422, § 80, effective July 1.

Editor's note: This section is similar to former § 1-7-701 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Fraud must be shown to require ballot box opening. Where the court, in a contested election case in which fraud was alleged, refused to require the opening of the ballot boxes and a recounting of the ballots until some evidence of the fraud alleged was introduced, its discretion was, under the circumstances, commendably exercised. Kindel v. Le Bert, 23 Colo. 385, 48 P. 641 (1897).

And court may decline ruling when ballots destroyed. When, pending an appeal in the matter of a contested election, an event occurs, such as the destruction of the ballots cast at the election, which under the circumstances of the case, renders any ruling which might be made ineffectual, the court may decline to pass upon any of the controverted questions. Kindel v. Le Bert, 23 Colo. 385, 48 P. 641 (1897).

1-7-802. Preservation of election records.

The designated election official shall be responsible for the preservation of any election records for a period of at least twenty-five months after the election or until time has expired for which the record would be needed in any contest proceedings, whichever is later. Unused ballots may be destroyed after the time for a challenge to the election has passed. If a federal candidate was on the ballot, the voted ballots and any other required election materials shall be kept for at least twenty-five months after the election.

Source: L. 92: Entire article R&RE, p. 752, § 9, effective January 1, 1993. **L. 93:** Entire section amended, p. 1422, § 81, effective July 1. **L. 99:** Entire section amended, p. 775, § 53, effective May 20. **L. 2010:** Entire section amended, (HB 10-1422), ch. 419, p. 2062, § 1, effective August 11.

Editor's note: This section is similar to former § 1-7-702 as it existed prior to 1992.

1-7-803. Custody and lawful transfer of election records - rules.

(1) A designated election official must not transfer custody or control of election records or other election materials, as designated by the secretary of state, to a third party unless the transfer is authorized or required by the secretary of state or a mandatory legal obligation imposed by a court of competent jurisdiction.

(2) The secretary of state may adopt rules as necessary to administer and enforce this section, including rules regarding the creation of an inventory of election records or election materials transferred due to a mandatory legal obligation imposed by a court of competent jurisdiction.

(3) Nothing in this section alters or amends the requirements or limitations for or any duties of a designated election official with respect to the disclosure of public records as set forth in the "Colorado Open Records Act", part 2 of article 72 of title 24.

Source: L. 2026: Entire section added, (HB 26-1113), ch. 267, p. 1507, § 50, effective June 1.

PART 9

BALLOT ISSUE NOTICES

Editor's note: This part 9 was added in 1994. This part 9 was amended with relocations in 1996, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 9 prior to 1996, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

1-7-901. Receipt of comments concerning ballot issues.

(1) Each political subdivision shall accept written comments concerning ballot issues in accordance with this section.

(2) All comments filed in writing will be received and kept on file with the designated election official for the political subdivision submitting to its eligible electors the ballot issue to which the comments pertain. However, only those comments that are filed by persons eligible to vote in the political subdivision submitting the ballot issue to its electors must be summarized in the ballot issue notice. The filed comments shall be retained by the designated election official as election records.

(3) To be summarized in the ballot issue notice, the comments shall address a specific ballot issue and shall include a signature and an address where the signor is registered to vote and shall be filed with the designated election official for the political subdivision and not the county clerk and recorder of the county in which the political subdivision is located unless the issue is a county issue for which the county clerk and recorder is the designated election official.

(4) Since section 20 (3)(b)(v) of article X of the state constitution requires that comments pertaining to a ballot issue be filed by forty-five days before the election and since such day is always a Saturday, all comments shall be filed by noon on the Friday before the forty-fifth day before the election.

Source: L. 96: Entire part amended with relocations, p. 1747, § 44, effective July 1. **L. 97:** (4) amended, p. 1099, § 1, effective May 27. **L. 99:** (4) amended, p. 775, § 54, effective May 20. **L. 2018:** (4) amended, (SB 18-233), ch. 262, p. 1611, § 22, effective May 29.

1-7-902. Preparation of fiscal information.

A governing body submitting a referred measure, or its designee, shall be responsible for providing to its designated election official the fiscal information that must be included in the ballot issue notice. For political subdivisions, the governing body shall be the board that authorized submission of the ballot issue to the electorate.

Source: L. 96: Entire part amended with relocations, p. 1747, § 44, effective July 1. **L. 2000:** Entire section amended, p. 299, § 9, effective August 2.

1-7-903. Preparation of written comments.

(1) For referred measures, the designated election official shall summarize the filed comments in favor of and in opposition to the ballot issue for the ballot issue notice.

(2) For initiated measures, the petition representatives shall be solely responsible for summarizing all comments filed in favor of the ballot issue. The designated election official shall summarize all comments filed in opposition to the ballot issue.

(3) Petition representatives required to summarize favorable comments in favor of their petition shall submit the summary in typewritten form to the designated election official for the jurisdiction in which the petition is presented no later than forty-four days before the election. If a summary is not filed by the petition representatives within the time allowed, the designated election official shall print the following in the ballot issue notice where the summary would appear: "No summary was filed by the statutory deadline."

(3.5) For political subdivisions of the state, including but not limited to special districts, that have no designated election official, the governing body of a political subdivision shall be solely responsible for preparing the summary of the filed comments in favor of and in opposition to the ballot issue for the ballot issue notice required by section 20 (3)(b)(v) of article X of the state constitution.

(4) If no comments are filed in opposition to or in support of a ballot issue, the designated election official shall not prepare any summaries and shall state substantially the following in the ballot issue notice where the summary or summaries would appear: "No comments were filed by the constitutional deadline."

(5) The provisions of this section shall not apply to a statewide ballot issue that is subject to the provisions of section 1 (7.5) of article V of the state constitution.

Source: L. 96: Entire part amended with relocations, p. 1747, § 44, effective July 1. **L. 97:** (3) amended, p. 1099, § 2, effective May 27. **L. 99:** (3) amended, p. 776, § 55, effective May 20. **L. 2010:** (3.5) added, (HB 10-1116), ch. 194, p. 833, § 17, effective May 5. **L. 2018:** (3) amended, (SB 18-233), ch. 262, p. 1611, § 23, effective May 29.

1-7-904. Transmittal of notices.

Notwithstanding the provision for independent mail ballot elections in section 1-7-116 (1), the designated election official or the official's designee for a political subdivision conducting an election in November shall prepare and deliver to the county clerk and recorder for the county or counties in which the political subdivision is located no later than forty-three days before the election the full text of any required ballot issue notices.

Source: L. 96: Entire part amended with relocations, p. 1748, § 44, effective July 1. **L. 97:** Entire section amended, p. 1100, § 3, effective May 27. **L. 99:** Entire section amended, p. 776, § 56, effective May 20. **L. 2000:** Entire section amended, p. 299, § 10, effective August 2. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1612, § 24, effective May 29.

1-7-905. Preparation of notices.

(1) For coordinated elections, the county clerk and recorder is responsible for placing the ballot issue notices received from the various political subdivisions participating in the election in the proper order in the ballot issue notice packet. As nearly as practicable, the notice must be in the order the ballot issues will appear on the ballot. The ballot issue notice must be followed by a certification by the county clerk and recorder that the ballot issue notices are complete as submitted by the political subdivisions. No additional information may be included as part of the ballot issue notice except as may be required by law. A general disclaimer may precede or follow the ballot issue notice which states: "The information contained in this notice was prepared by persons required by law to provide summaries of ballot issues and fiscal information."

(2) The designated election officials of overlapping political subdivisions conducting an election other than a coordinated election shall confer concerning the preparation of the ballot issue notice no later than forty days prior to the date of the election. The political subdivisions conducting the election shall provide for preparation of any required ballot issue notice package by agreement in a form substantially as provided in section 1-7-116.

Source: L. 96: Entire part amended with relocations, p. 1748, § 44, effective July 1. **L. 99:** (2) amended, p. 776, § 57, effective May 20. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 581, § 48, effective May 18.

1-7-905.5. Form of notice.

(1) The ballot issue notice must begin with the words "All registered voters", regardless of whether the electors of the political subdivision must be registered electors to be eligible to vote in the election, and ends at the conclusion of the summary of comments. Any information concerning procedure for an election or other information included with the ballot issue notice prior to the words "All registered voters", or after the conclusion of the summary of comments, are not deemed to be part of the ballot issue notice.

(2) Repealed.

Source: L. 96: Entire part amended with relocations, p. 1748, § 44, effective July 1. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 724, § 78, effective May 10. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 581, § 49, effective May 18. **L. 2019:** (2) repealed, (HB 19-1278), ch. 326, p. 3029, § 39, effective August 2.

Cross references: (1) In 2013, subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-7-906. Mailing of notices.

(1) For coordinated elections, the county clerk and recorder as coordinated election official shall mail the ballot issue notice packet to each address of one or more active registered electors who reside in the county or portions of the county in which registered voters of those districts submitting ballot issues reside.

(2) The designated election official for the various political subdivisions shall be responsible for mailing the required notice to each address of one or more active registered electors who do not reside within the county or counties where the political subdivision is located.

(3) The political subdivisions shall by agreement, in a form substantially as provided in sections 1-7-116 and 1-7-905, provide for mailing of any required ballot issue notice package for elections conducted other than coordinated elections.

Source: L. 96: Entire part amended with relocations, p. 1749, § 44, effective July 1. **L. 2016:** (1) and (3) amended, (SB 16-142), ch. 173, p. 581, § 50, effective May 18.

1-7-907. Ballot issue notice.

The ballot issue notice shall be prepared and mailed in substantial compliance with section 20 of article X of the state constitution, the provisions of this title, and the rules and regulations of the secretary of state.

Source: L. 96: Entire part amended with relocations, p. 1749, § 44, effective July 1.

Editor's note: This section is similar to former § 1-5-206.5 as it existed prior to 1996.

1-7-908. Additional notice - election to create financial obligation.

(1) (a) A district submitting a ballot issue concerning the creation of any debt or other financial obligation at an election in the district shall post notice of the following information on the district's website or, if the district does not maintain a website, at the district's chief administrative office no later than twenty days before the election:

(I) The district's ending general fund balance for the last four fiscal years and the projected ending general fund balance for the current fiscal year;

(II) A statement of the total revenues in and expenditures from the district's general fund for the last four fiscal years and the projected total revenues in and expenditures from the general fund for the current fiscal year;

(III) The amount of any debt or other financial obligation incurred by the district for each of the last four fiscal years for cash flow purposes that has a term of not more than one year and the amount of any such financial obligation projected for the current fiscal year;

(IV) A statement as to whether the district's emergency reserve required by section 20 (5) of article X of the state constitution has been fully funded by cash or investments for the current fiscal year and each of the last four fiscal years and an identification of the funds or accounts in which the reserve is currently held. If the reserve has not been fully funded, the notice shall include a statement of the reasons the reserve has not been fully funded.

(V) The location or locations at which any person may review the district's audited financial statements for the last four fiscal years, any management letters that have been made public and have been provided to the district by its auditors in connection with the preparation of its audits for the last four fiscal years, and the district's budget for the current fiscal year.

(b) If the debt or other financial obligation for which the district is seeking voter approval is to be paid from a revenue source that is accounted for in a fund other than the district's general fund, the information required by subparagraphs (I) and (II) of paragraph (a) of this subsection (1) shall also be made available for such other fund.

(c) The information required by subparagraphs (I), (II), (III), and (IV) of paragraph (a) of this subsection (1) shall be based upon audited figures. If no audited figures are available, the information shall be based upon estimated figures.

(2) The notice required by this section shall be in addition to and shall not substitute, replace, or be combined with any other notice required by law.

(3) For purposes of this section, "district" shall have the same meaning as set forth in section 20 (2)(b) of article X of the state constitution.

Source: L. 2003: Entire section added, p. 748, § 1, effective August 6.

PART 10

RANKED VOTING METHODS

1-7-1001. Short title.

This part 10 shall be known and may be cited as the "Voter Choice Act".

Source: L. 2008: Entire part added, p. 1249, § 2, effective August 5.

1-7-1001.3. Definitions.

As used in this part 10, unless the context otherwise requires:

(1) "Federal office" means United States senator, representative in congress, or president of the United States.

(2) "Local government" means a statutory city or town or a special district created pursuant to article 1 of title 32.

(3) "State office" means district attorney, state representative, state senator, regent of the university of Colorado, state treasurer, secretary of state, attorney general, or governor.

Source: L. 2025: Entire section added with relocations, (SB 25-275), ch. 377, p. 2028, § 7, effective August 6; entire section added with relocations, (SB 25-275), ch. 377, p. 2029, § 8, effective March 1, 2026.

Editor's note: This section is similar to former § 1-7-1002 (1) as it existed prior to 2025.

1-7-1002. Ranked voting methods - report - legislative declaration.

(1) Repealed.

(2) A local government may conduct an election using a ranked voting method if:

(a) The use of the ranked voting method in the local government is not prohibited by the charter of the local government; and

(b) The election is conducted with a system of casting, recording, and tabulating votes that is capable of conducting the election using ranked voting and that has been approved by the governing body and the designated election official of the local government.

(2.5) (a) The general assembly finds and declares that for this subsection (2.5), it intends that a general provision with a later effective date prevails over a specific provision with an earlier effective date.

(b) Before a primary or general election can use a ranked voting method for federal or state offices, the secretary of state must certify that:

(I) Municipalities in at least three counties with more than two hundred fifty thousand active electors, at least thirty-seven thousand five hundred but fewer than two hundred fifty thousand active electors, at least ten thousand but fewer than thirty-seven thousand five hundred active electors, and fewer than ten thousand active electors, have coordinated with the municipality's county clerk to conduct an election with a ranked voting method;

(II) At least two counties specified in subsection (2.5)(b)(I) of this section have a population of at least two thousand citizens or at least two and one-half percent of citizens aged eighteen years or older who speak English less than very well, as defined by the United States census bureau American community survey or comparable census data, and who speak a shared language in their place of residence;

(III) At least two counties specified in subsection (2.5)(b)(I) of this section have a population of two thousand non-white active electors or at least two and one-half percent non-white active electors as defined by the United States census bureau American community survey or comparable census data; and

(IV) A risk-limiting audit has been successfully completed for each municipal election in the municipalities specified in subsection (2.5)(b)(I) of this section and has demonstrated that the certified outcomes in each race were correct.

(c) When all of the requirements specified in subsection (2.5)(b) of this section are satisfied, and before a primary or general election can use a ranked voting method for federal or state offices, the secretary of state shall provide a report as part of the secretary's presentation to the legislative committees of reference at the committees' hearings held pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act"

pursuant to part 2 of article 7 of title 2, regarding the impact of ranked choice voting methods as compared to elections conducted through other voting methods. As available, the report must include information regarding spoilage of ballots, undervotes, record of use and results of risk-limiting audits, and the impact on voter turnout in historically under-represented communities, including the disabled community, non-English speaking voters, and non-white voters.

(3) The secretary of state shall submit a report to the state, veterans, and military affairs committees, or any successor committees, of the house of representatives and the senate no later than February 15, 2011, that includes, but is not limited to:

(a) An assessment of all elections conducted using ranked voting methods by local governments in accordance with this part 10 and by home rule cities or cities and counties in accordance with their charters from August 5, 2008, through the general election of November 2010;

(b) Recommendations for changes to statutes, rules, and local voting procedures that would be required to implement ranked voting as a permanent alternative election method for state, federal, and local special and general elections;

(c) An inventory of available election equipment necessary for conducting elections using ranked voting methods, including the costs associated with the equipment; and

(d) Any recommendations made by the designated election officials of local governments that conducted an election using a ranked voting method.

Source: L. 2008: Entire part added, p. 1249, § 2, effective August 5. **L. 2024:** (1) amended and (2.5) added, (SB 24-210), ch. 468, p. 3265, § 54, effective March 1, 2026. **L. 2025:** (1) repealed, (SB 25-275), ch. 377, p. 2109, § 336, effective August 6.

Editor's note: (1) Subsection (1) was relocated to § 1-7-1001.3 in 2025.

(2) Subsection (1) was amended in SB 24-210, effective March 1, 2026. However, those amendments were superseded by the repeal of subsection (1) by SB 25-275, effective August 6, 2025.

1-7-1003. Conduct of elections using ranked voting methods - instant runoff voting - choice voting or proportional voting - reports.

(1) A ranked voting ballot shall allow an elector to rank as many choices as there are candidates. However, if the voting system cannot accommodate a number of rankings equal to the number of candidates, the designated election official may limit the number of choices an

elector may rank to the maximum number allowed by the voting system; except that the number of choices shall not be less than three.

(2) A ranked voting ballot shall allow an elector to rank up to two write-in candidates. A vote for an unqualified write-in candidate shall not be considered a mark for a candidate.

(3) (a) In an election in which one candidate is to be elected to an office, the ranked voting method shall be known as instant runoff voting. The ballots shall be counted in rounds simulating a series of runoffs until two candidates remain or until one candidate has more votes than the combined vote total of all other candidates. The candidate having the greatest number of votes shall be declared the winner.

(b) In each round of counting ballots in an election using instant runoff voting, each ballot shall be counted as a vote for the remaining candidate ranked highest by the elector, and the candidate with the smallest number of votes shall be eliminated.

(c) If two or more candidates tie for the smallest number of votes, the candidate to eliminate shall be chosen by lot.

(4) In an election in which more than one candidate is to be elected to an office in a multiple-seat district or on a governing body that includes multiple at-large seats, a local government may conduct a ranked voting election using the single transferable vote method, in which a winning threshold is calculated based on the number of seats to be filled and the number of votes cast so that no more than the correct number of candidates can win. The ballots shall be counted in rounds, with surplus votes transferred from winning candidates and candidates with the fewest votes eliminated according to the methodology established by the secretary of state by rule, until the number of candidates remaining equals the number of seats to be filled. A local government may also conduct an election pursuant to this subsection (4) using the principles of instant runoff voting specified in subsection (3) of this section to ensure that each elector has equal voting power and that an elector's lower ranking of a candidate does not count against the candidate to whom the elector gave the highest rank.

(5) (a) In an election conducted using a ranked voting method, an explanation of ranked voting and instructions for electors in the form approved by the secretary of state by rule shall be posted at each polling location and included with each mail ballot.

(b) A local government that conducts an election using a ranked voting method shall conduct a voter education and outreach campaign to familiarize electors with ranked voting in English and in every language in which a ballot is required to be made available pursuant to this code and the federal "Voting Rights Act of 1965", 52 U.S.C. sec. 10101 et seq.

(6) In an election using a ranked voting method, the election judges shall not count votes at the polling location but shall deliver all ballots cast in the election to the designated election

official, which shall count the votes in accordance with this section and the rules adopted by the secretary of state pursuant to section 1-7-1004 (1).

(7) (a) For an election conducted using a ranked voting method, the designated election official shall issue the following reports:

(I) A summary report listing the total number of votes for each candidate in each round;

(II) A ballot image report listing for each ballot the order in which the elector ranked the candidates; and

(III) A comprehensive report listing the results in the summary report by precinct or ballot style, as required or permitted by section 1-7.5-208 (3)(a).

(b) The secretary of state may by rule establish additional requirements for the reports issued pursuant to this subsection (7).

(c) Preliminary versions of the summary report and ballot image report shall be made available to the public as soon as possible after the commencement of the official canvass of the vote pursuant to subsection (6) of this section.

Source: L. 2008: Entire part added, p. 1250, § 2, effective August 5. **L. 2009:** (5)(b) amended, (SB 09-292), ch. 369, p. 1938, § 2, effective August 5. **L. 2013:** (5)(a), (6), and (7)(a)(II) amended, (HB 13-1303), ch. 185, p. 724, § 79, effective May 10. **L. 2016:** (5)(b) amended, (SB 16-142), ch. 173, p. 582, § 51, effective May 18. **L. 2021:** (7)(a)(II) and (7)(a)(III) amended, (HB 21-1071), ch. 367, p. 2422, § 16, effective July 1, 2022.

Cross references: In 2013, subsections (5)(a), (6), and (7)(a)(II) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7-1004. Secretary of state - rules - guidance to local governments.

(1) The secretary of state shall adopt rules consistent with section 1-7-1003 and in accordance with article 4 of title 24, C.R.S., on the conduct of elections using ranked voting methods. The rules shall prescribe the methods and procedures for tabulating, auditing, and reporting results in an election using a ranked voting method.

(2) The secretary of state shall provide guidance and advice to the governing bodies and designated election officials of local governments of the state on the conduct of elections using ranked voting methods.

Source: L. 2008: Entire part added, p. 1252, § 2, effective August 5.

ARTICLE 7.5

Mail Ballot Elections

PART 1
MAIL BALLOT ELECTIONS

1-7.5-101. Short title.

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1-7.5-103. Definitions.

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1-7.5-108. Mail-in ballots. (Repealed)

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PART 2
COUNTING MAIL BALLOTS

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1-7.5-202. Hours a counting place is open for receiving and counting mail ballots.

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1-7.5-207. Voter verification - mail ballot information.

1-7.5-208. Certificate of mail ballots cast - survey of returns.

1-7.5-209. Preservation of rejected mail ballots.

1-7.5-210. Maintenance of mail ballot election voting records - transmittal of such records to secretary of state.

PART 1

MAIL BALLOT ELECTIONS

1-7.5-101. Short title.

This article shall be known and may be cited as the "Mail Ballot Election Act".

Source: L. 92: Entire article R&RE, p. 752, § 10, effective January 1, 1993.

Editor's note: This section is similar to former § 1-7.5-101 as it existed prior to 1992.

ANNOTATION

The Mail Ballot Election Act is constitutional because there is a compelling state interest in encouraging increased voter participation and mail ballot elections serve to meet that interest. Bruce v. City of Colo. Springs, 971 P.2d 679 (Colo. App. 1998).

1-7.5-102. Legislative declaration.

(1) The general assembly hereby finds, determines, and declares that self-government by election is more legitimate and better accepted as voter participation increases. By enacting this article, the general assembly hereby concludes that it is appropriate to provide for mail ballot elections under specified circumstances.

(2) Recognizing the continued need for in-person voting options through early voting and on election day, the general assembly finds that mail ballot elections conducted by the county clerk and recorder must include voter service and polling centers so voters can register to vote, update voter registration information, and vote in person.

(3) Nothing in this code prevents a political subdivision from conducting an independent mail ballot election in accordance with article 13.5 of this title.

Source: L. 92: Entire article R&RE, p. 752, § 10, effective January 1, 1993. **L. 2010:** Entire section amended, (HB 10-1116), ch. 194, p. 834, § 18, effective May 5. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 724, § 80, effective May 10. **L. 2014:** Entire section amended, (HB 14-1164), ch. 2, p. 4, § 4, effective February 18.

Editor's note: This section is similar to former § 1-7.5-102 as it existed prior to 1992.

Cross references: (1) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

1-7.5-103. Definitions.

As used in this article 7.5, unless the context otherwise requires:

(1) "Designated election official" means official as defined in section 1-1-104 (8).

(2) "Election" means any election under the "Uniform Election Code of 1992" or the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S.

(3) "Election day" means the date either established by law or determined by the governing body of the political subdivision conducting the election, to be the final day on which all ballots are determined to be due, and the date from which all other dates in this article are set.

(3.5) "Independent mail ballot election" has the meaning set forth in section 1-13.5-1102.

(4) "Mail ballot election" means an election for which eligible electors receive ballots by mail and vote by mailing those ballots, depositing the ballots at, as applicable, drop-off locations or voter service and polling centers, or, as applicable, by voting at a voter service and polling center. The term does not include an independent mail ballot election.

(5) "Mail ballot packet" means the packet of information provided by the designated election official to eligible electors in the mail ballot election and to persons preregistered to vote pursuant to section 1-2-101 (2) who will be eighteen years of age on the date of the mail ballot election. The packet includes the ballot, instructions for completing the ballot, a return envelope, and, if applicable, a secrecy envelope or sleeve.

(6) "Political subdivision" means a governing subdivision of the state, including counties, municipalities, school districts, and special districts.

(7) "Return envelope" means an envelope that is printed with spaces for the name and address of, and a self-affirmation to be signed by, an eligible elector voting in a mail ballot election, that contains a ballot for the elector, and that is designed to allow election officials, upon examining the signature, name, and address on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

(8) "Secrecy envelope" means the envelope or sleeve used for a mail ballot election that contains the eligible elector's ballot for the election, and that is designed to conceal and maintain the confidentiality of the elector's vote until the counting of votes for that particular election.

Source: L. 92: Entire article R&RE, p. 752, § 10, effective January 1, 1993. **L. 94:** (4) amended, p. 1166, § 38, effective July 1. **L. 2003:** (5) and (7) amended, p. 1277, § 4, effective April 22. **L. 2009:** (4) amended, (HB 09-1015), ch. 259, p. 1184, § 3, effective August 5. **L. 2013:** (4) amended, (HB 13-1303), ch. 185, p. 725, § 81, effective May 10; (5) amended, (HB 13-1135), ch. 184, p. 678, § 5, effective August 7. **L. 2014:** (4), (5), and (8) amended and (3.5) added, (HB 14-1164), ch. 2, p. 5, § 5, effective February 18. **L. 2018:** IP, (5), and (7) amended, (SB 18-233), ch. 262, p. 1612, § 25, effective May 29.

Editor's note: This section is similar to former § 1-7.5-103 as it existed prior to 1992.

Cross references: (1) For the "Uniform Election Code of 1992", see articles 1 to 13 of this title.

(2) In 2013, subsection (4) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

1-7.5-104. Mail ballot elections - applicability - optional for political subdivisions other than a county.

For all general, primary, odd-year, coordinated, recall, and congressional vacancy elections, the county clerk and recorder shall conduct the election by mail ballot under the supervision of, and subject to rules promulgated in accordance with article 4 of title 24, C.R.S., by, the secretary of state.

Source: L. 92: Entire article R&RE, p. 753, § 10, effective January 1, 1993. **L. 93:** (2) amended, p. 1422, § 82, effective July 1. **L. 94:** (1) amended, p. 1166, § 39, effective July 1. **L. 2009:** (2) amended, (HB 09-1015), ch. 259, p. 1184, § 4, effective August 5. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 725, § 82, effective May 10. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 582, § 52, effective May 18.

Editor's note: This section is similar to former § 1-7.5-104 as it existed prior to 1992.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-104.5. Ballots and supplies for mail voting.

(1) The county clerk and recorder or designated election official shall provide mail ballots, affidavits, certificates, envelopes, instruction cards, and other necessary supplies in the same manner as other election supplies are provided for in all elections and without cost to any eligible elector wishing to vote pursuant to this article.

(2) (a) The ballots must be in the same form as other official ballots for the same election.

(b) The approved form must include, at a minimum:

(I) Instructions to return a copy of identification with the ballot for first-time electors who are required to provide identification in accordance with section 1-2-501;

(I.5) Instructions on how the elector can provide identification and a signature for verification for first-time electors who do not have a signature stored in the statewide voter registration system;

(II) Information regarding the availability of accessible voting systems in elections coordinated by the county clerk and recorder;

(III) Information regarding how to vote and return the ballot or obtain a replacement; and

(IV) Instructions to include adequate postage.

(3) In counties including more than one state senatorial district or more than one state representative district, or both, mail ballots must be provided in a manner to be determined by the county clerk and recorder for each combination of state legislative districts. Distinctive markings or colors may be used to identify political subdivisions when such colors or distinctive markings will aid in the distribution and tabulation of the ballots. A complete ballot may consist of one or more pages or cards so long as each page or card is numbered and identified as provided for paper ballots in sections 1-5-407 and 1-5-410. This subsection (3) applies to ballots to be cast on voting machines as well as to paper ballots and ballot cards that can be electronically counted.

(4) (a) On the mail ballot instructions, the following statements must be printed: "All ballots are counted in the same manner." and "You must sign the affirmation on the envelope. Do not sign, initial, or print your name on the ballot."

(b) The mail ballot instructions shall contain information on how the elector may verify that his or her mail ballot has been received by the county clerk and recorder or designated election official as provided in section 1-7.5-207.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 725, § 83, effective May 10. **L. 2018:** (4)(a) amended, (SB 18-233), ch. 262, p. 1612, § 26, effective July 1. **L. 2019:** (2)(b)(I.5) added, (SB 19-235), ch. 329, p. 3055, § 6, effective July 1, 2020. **L. 2021:** (2)(b)(I.5) amended, (SB 21-250), ch. 282, p. 1648, § 36, effective June 21.

Cross references: In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-105. Preelection process - rules.

(1) (a) The county clerk and recorder or designated election official responsible for conducting an election that is to be by mail ballot pursuant to section 1-7.5-104 (1) shall send a proposed election plan for conducting the mail ballot election to the secretary of state no later than ninety days prior to a nonpartisan election or, for any mail ballot election that is coordinated with or conducted by the county clerk and recorder, no later than one hundred twenty days prior to the election. The proposed plan may be based on the standard plan adopted by the secretary of state by rule.

(b) For each general election, a county clerk and recorder or designated election official shall solicit public comment on the proposed locations for voter service and polling centers and drop boxes in an election plan required pursuant to subsection (1)(a) of this section. On or before the fifty-fifth day before the deadline to submit the plan to the secretary of state, the county clerk and recorder or designated election official shall post to the county clerk and recorder's website the proposed locations for voter service and polling centers and drop boxes. The county clerk and recorder shall accept public comments on the proposed locations through the fortieth day before the deadline to submit the plan to the secretary of state.

(1.3) The election plan required under subsection (1) of this section must include, at a minimum:

(a) The address and hours of operation for each voter service and polling center;

(b) The address and hours of operation for each ballot drop-off location, including the location of each drop box;

(c) A throughput analysis for each designated voter service and polling center that addresses:

(I) The number of electors anticipated at the center during its operation;

(II) If the center was used in a previous election, the wait times and number of electors that used the center in the previous election; and

(III) The number of election judges, check-in stations, printers, and other equipment that will be in use at the center;

(d) A copy of the mail ballot packet that will be used in the election;

(e) A copy of the signature card that will be used for in-person voting in accordance with section 1-7-110;

(f) Copies of all forms that will be available or provided to electors to cure deficiencies or errors during the election with the county-specific information filled in;

(f.5) The information required by sections 1-7-120 (2)(c) and 1-7.5-113.5 (2); and

(g) Such other information as the secretary of state may require.

(1.5) Repealed.

(2) (a) The secretary of state shall approve, disapprove, or request modification of the written plan for conducting a mail ballot election, in accordance with section 1-7.5-106, within twenty days after receiving the plan and shall provide a written notice to the affected political subdivision.

(b) Repealed.

(c) The secretary of state may promulgate rules concerning the submission and approval of election plans.

(d) The secretary of state shall release the information required by subsections (1.3)(a) and (1.3)(b) of this section for each voter service and polling center described in an election plan submitted pursuant to subsection (2)(a) of this section no later than August 1 for each voter service and polling center.

(3) The county clerk and recorder or designated election official shall supervise the distribution, handling, and counting of ballots and the survey of returns in accordance with rules promulgated by the secretary of state as provided in section 1-7.5-106 (2) and shall take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election.

(4) No elector information shall be delivered in the form of a sample ballot.

Source: L. 92: Entire article R&RE, p. 753, § 10, effective January 1, 1993. **L. 93:** (1) amended, p. 1423, § 83, effective July 1. **L. 94:** (1) amended, p. 1166, § 40, effective July 1. **L. 95:** (1) amended, p. 840, § 61, effective July 1. **L. 2007:** (1) and (2) amended, p. 922, § 1, effective May 17. **L. 2009:** (1.5) added and (2) amended, (HB 09-1015), ch. 259, p. 1184, § 5, effective August 5. **L. 2010:** (1) and (2)(a) amended, (HB 10-1116), ch. 194, p. 834, § 19, effective May 5; (2)(b) amended, (HB 10-1422), ch. 419, p. 2062, § 2, effective August 11. **L. 2012:** (1) and (1.5)(a) amended, (HB 12-1292), ch. 181, p. 686, § 32, effective May 17. **L. 2013:** (1) and (3) amended and (1.5) and (2)(b) repealed, (HB 13-1303), ch. 185, p. 726, § 84, effective May 10. **L. 2019:** (1) amended and (1.3) and (2)(c) added, (HB 19-1278), ch. 326, p. 3029, § 40, effective August 2. **L. 2021:** (1) and (2)(a) amended and (1.3)(f.5) added, (SB 21-250), ch. 282, p. 1648, § 37, effective June 21. **L. 2026:** (1)(a), (1.3)(f.5), and (2)(a) amended and (2)(d) added, (HB 26-1113), ch. 267, p. 1508, § 51, effective June 1.

Editor's note: This section is similar to former § 1-7.5-105 as it existed prior to 1992.

Cross references: (1) In 2013, subsections (1) and (3) were amended and subsections (1.5) and (2)(b) were repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-7.5-106. Secretary of state - duties and powers.

(1) In addition to any other duties prescribed by law, the secretary of state, with advice from election officials of the several political subdivisions, shall:

(a) Prescribe the form of materials to be used in the conduct of mail ballot elections; except that all mail ballot packets shall include a ballot, instructions for completing the ballot, and a return envelope;

(b) Establish procedures for conducting mail ballot elections; except that the procedures shall be consistent with section 1-7.5-107;

(c) Supervise the conduct of mail ballot elections by the election officials as provided in section 1-7.5-105 (3).

(2) In addition to other powers prescribed by law, the secretary of state may adopt rules governing procedures and forms necessary to implement this article and may appoint any county clerk and recorder as an agent of the secretary to carry out the duties prescribed in this article.

Source: L. 92: Entire article R&RE, p. 754, § 10, effective January 1, 1993. **L. 2001:** (1)(a) amended, p. 1003, § 10, effective August 8. **L. 2003:** (1)(a) amended, p. 1278, § 5, effective April 22. **L. 2018:** (1)(a) amended, (SB 18-233), ch. 262, p. 1612, § 27, effective May 29.

Editor's note: This section is similar to former § 1-7.5-106 as it existed prior to 1992.

ANNOTATION

Tri-fold envelope that conceals the voter's mark when folded in a certain way satisfies the requirement that a secrecy envelope be included with mail ballot packets. Bruce v. City of Colo. Springs, 971 P.2d 679 (Colo. App. 1998).

1-7.5-106.5. Registration record - list of mail ballots.

(1) Before any mail ballot is delivered or mailed or before any eligible elector is permitted to cast a vote at an election where the county clerk and recorder is the designated election official, the designated election official shall record the date the ballot is delivered or mailed in the statewide voter registration database.

(2) For nonpartisan elections coordinated by the county clerk and recorder, voters shall be recorded in the statewide voter registration database.

(3) The county clerk and recorder or designated election official shall record in the statewide voter registration system created in section 1-2-301 (1) the names and precinct numbers of eligible electors, together with the date on which the mail ballot was sent and the date on which each mail ballot was returned or otherwise cast. For unaffiliated electors in a primary election, the county clerk and recorder shall record which political party's ballot the elector cast. If a mail ballot is not returned or otherwise cast, or if it is rejected and not counted, that fact must be recorded in the statewide voter registration system. The information is subject to public inspection under applicable laws and rules.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 727, § 85, effective May 10. **L. 2017:** (3) amended, (SB 17-305), ch. 216, p. 844, § 6, effective August 9.

Cross references: In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-107. Procedures for conducting mail ballot election - primary elections - first-time voters casting a mail ballot after having registered by mail to vote - in-person request for ballot - return envelope requirements - repeal.

(1) Official ballots shall be prepared and all other preelection procedures followed as otherwise provided by law or rules promulgated by the secretary of state; except that mail ballot packets shall be prepared in accordance with this article.

(2) Repealed.

(2.3) (Deleted, 2016.)

(2.5) Repealed.

(2.7) Subsequent to the preparation of ballots in accordance with section 1-5-402 but prior to the mailing required under subsection (3) of this section, and no sooner than forty-five days nor later than thirty-two days before an election, a designated election official shall provide a mail ballot to a registered elector requesting the ballot at the designated election official's office or the office designated in the election plan filed with the secretary of state.

(3) (a) (I) Not sooner than twenty-nine days before a general, primary, or other mail ballot election, and no later than twenty-five days before the election, the county clerk and recorder or designated election official shall mail to each active registered elector, at the last mailing address appearing in the registration records and in accordance with United States postal service regulations, a mail ballot packet, which must be marked "DO NOT FORWARD. ADDRESS CORRECTION REQUESTED.", or any other similar statement that is in accordance with United States postal service regulations. Nothing in this subsection (3) affects any provision of this code governing the delivery of mail ballots to an absent uniformed services elector, nonresident overseas elector, or resident overseas elector covered by the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20301 et seq.

(II) If the twenty-ninth day before a general, primary, or other mail ballot election is a Saturday, Sunday, state legal holiday, or federal holiday recognized by the United States postal service, the county clerk and recorder or designated election official may mail ballot packets pursuant to subsection (3)(a)(I) of this section on the Friday immediately preceding the twenty-ninth day.

(b) The ballot or ballot label shall contain the following warning:

WARNING:

Any person who, by use of force or other means, unduly influences an eligible elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges, or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates, or tampers with a ballot is subject, upon conviction, to imprisonment, or to a fine, or both.

(b.5) (I) (A) The return envelope must have printed on it a self-affirmation substantially in the following form:

I affirm under penalty of perjury that I am a United States citizen and an eligible elector; I have been a Colorado resident for at least twenty-two days immediately before this election; I am registered to vote at my sole legal place of residence; I will be at least eighteen years of age on election day; I voted the ballot that was issued to me; and this is the only ballot I have voted in this election.

....

Date Signature of voter

(B) (Deleted by amendment, L. 2021.)

(II) The signing of the self-affirmation on the return envelope shall constitute an affirmation by the eligible elector, under penalty of perjury, that the facts stated in the self-affirmation are true. If the eligible elector is unable to sign, the eligible elector may affirm by making a mark on the self-affirmation, with or without assistance, witnessed by another person.

(III) The return envelope shall not be required to have a flap covering the signature or otherwise impede the use of a signature verification device.

(c) Repealed.

(d) An eligible elector may obtain a replacement ballot in accordance with the procedures specified in sections 1-7.5-114.5 and 1-7.5-115.

(3.5) (a) Unless otherwise provided by section 1-2-201 (5), the requirements of this subsection (3.5) apply to a person who registered to vote in accordance with article 2 of this title and who has not previously voted in an election in Colorado.

(b) Any person who matches the description specified in subsection (3.5)(a) of this section and intends to cast his or her ballot by mail in accordance with this article 7.5 shall submit with his or her mail ballot a copy of identification within the meaning of section 1-1-104 (19.5).

(c) The county clerk and recorder or designated election official shall include with the mail ballot packet required by paragraph (a) of subsection (3) of this section written instructions advising an elector who matches the description specified in paragraph (a) of this subsection (3.5) of the manner in which the elector shall be in compliance with the requirements contained in paragraph (a) of this subsection (3.5).

(d) (I) Any person who desires to cast his or her ballot by mail but does not satisfy the requirements of subsection (3.5)(b) of this section may cast such ballot by mail. The county clerk

and recorder or designated election official shall, within three days after the receipt of a mail ballot that does not contain a copy of identification as defined in section 1-1-104 (19.5), but in no event later than two days after election day, send to the eligible elector at the address indicated in the registration records and to the eligible elector's electronic mail address if available a letter explaining the lack of compliance with subsection (3.5)(b) of this section; except that, if the county clerk and recorder fails to send the letter required by this subsection (3.5)(d)(I) within two days after the election, the county clerk and recorder must send the letter to the eligible elector by overnight mail or hand delivery, or by the most expedient method available for overseas and military voters. If the county clerk and recorder or designated election official receives a copy of identification in compliance with subsection (3.5)(b) of this section within eight days after election day, and if the mail ballot is otherwise valid, the mail ballot shall be counted.

(II) The county clerk and recorder or designated election official, within twenty-four hours of receiving an eligible elector's identification in compliance with subsection (3.5)(b) of this section, shall update the statewide voter registration system to indicate that the eligible elector has cured the deficiency on their ballot. The clerk and recorder or designated election official is not required to update the statewide voter registration system pursuant to this subsection (3.5)(d)(II) on a Saturday, Sunday, or legal holiday unless, on the Thursday immediately following election day, the clerk and recorder or designated election official's review of the remaining number of letters issued but not returned pursuant to subsection (3.5)(d)(I) of this section and sections 1-7.5-107.3 (1.5)(a) and 1-7.5-107.3 (2)(a) indicates that the margin for any ballot contest or ballot question is greater than the remaining number of letters issued or indicates that the remaining number of letters issued to voters eligible to vote on a particular ballot contest or ballot question could not potentially move the margin of that ballot contest or ballot question into a mandatory recount pursuant to section 1-10.5-101 (1)(b), if returned.

(III) For state-certified ballot contests and ballot measures, the secretary of state's office shall complete the review pursuant to subsection (4.3)(a)(II) of this section.

(e) The requirements of this subsection (3.5) shall be implemented by state and local election officials in a uniform and nondiscriminatory manner.

(f) Notwithstanding any other provision of law, the requirements of this subsection (3.5) do not apply to any person who is:

(I) Entitled to vote by absentee ballot under the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20301 et seq.;

(II) Provided the right to vote otherwise than in person under section (b)(2)(B)(ii) of the federal "Voting Accessibility for the Elderly and Handicapped Act", 52 U.S.C. sec. 20102 et seq.; or

(III) Entitled to vote otherwise than in person under any other federal law.

(4) (a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the self-affirmation on the return envelope, enclose identification if required by subsection (3.5) of this section, and comply with the instructions provided with the ballot.

(b) (I) The eligible elector may:

(A) Return the marked ballot to the county clerk and recorder or designated election official by United States mail or by depositing the ballot at the office of the county clerk and recorder or designated election official or at any voter service and polling center, drop box, or drop-off location designated by the county clerk and recorder or designated election official as specified in the election plan filed with the secretary of state. The ballot must be returned in the return envelope.

(B) Deliver the ballot to any person of the elector's own choice or to any duly authorized agent of the county clerk and recorder or designated election official for mailing or personal delivery; except that no person other than a duly authorized agent of the county clerk and recorder or designated election official may receive more than ten mail ballots in any election for mailing or delivery; or

(C) Cast his or her vote in person at the voter service and polling center.

(II) If an eligible elector returns the ballot by mail, the elector must provide postage. The ballot must be received at the office of the county clerk and recorder or designated election official, a drop box, or a designated drop-off location, which must remain open until 7 p.m. on election day. All envelopes containing mail ballots must be in the hands of the county clerk and recorder or designated election official no later than 7 p.m. on the day of the election. Mail ballot envelopes received after 7 p.m. on the day of the election but postmarked on or before the day of the election will remain sealed and uncounted, but the elector's registration record shall not be canceled for failure to vote in a general election.

(III) A person who delivers a ballot on behalf of an elector pursuant to sub-subparagraph (B) of subparagraph (I) of this paragraph (b) is not deemed to be voting more than once pursuant to section 1-13-710.

(IV) Nothing in subparagraph (II) of this paragraph (b) affects or supersedes provisions regarding the timely casting and counting of ballots under section 1-8.3-111 or 1-8.3-113.

(c) and (d) Repealed.

(4.3) (a) (I) For any election, other than a general election, for which a county clerk and recorder is the designated election official, there must be a minimum number of drop boxes where mail ballots may be deposited equal to at least one drop box for each thirty thousand active registered electors in the county; except that, if the district or political subdivision for which the election is being conducted is less populous than the county, the county clerk and recorder shall designate at least one drop box for each thirty thousand current active registered

electors eligible to vote in that election. The drop boxes must be arrayed throughout the county in a manner that provides the greatest convenience to electors. Each drop box must comply with the secretary of state's current security rules.

(II) For a presidential primary or November coordinated election, in addition to the requirements of subsection (4.3)(a)(I) of this section, the county clerk and recorder shall establish a drop box on each campus of an institution of higher education, as defined in section 23-3.1-102 (5), located within the county that has one thousand or more enrolled students as determined in accordance with section 1-5-102.9 (1)(b.5)(III).

(III) A county may establish additional drop-off locations at the county's discretion. Each drop-off location must be supervised in accordance with section 1-5-102.9 (5)(f).

(b) The minimum number of drop boxes described in subsection (4.3)(a) of this section must accept mail ballots delivered by electors during, at a minimum, the seven days prior to and including the day of the election.

(c) (I) The county clerk and recorder or designated election official shall arrange for the collection of ballots by bipartisan teams of election judges or staff from each drop box location after the drop box location is open and must receive the ballots into the statewide voter registration system:

(A) At least once every seventy-two hours after ballots are mailed, excluding ballots that are mailed pursuant to the federal"Uniformed and Overseas Citizens Absentee Voting Act of 1986", 52 U.S.C. sec. 20301 et seq., until the date that voter service and polling centers are required to open;

(B) At least once every twenty-four hours during the days that voter services and polling centers are required to be open;

(C) For counties with at least two hundred fifty thousand active electors as of the date of the previous general election, at least once on the Sunday before election day; and

(D) For counties with at least two hundred fifty thousand active electors as of the date of the previous general election, at least twice on the Monday before election day and at least twice on election day before 7 p.m.

(II) A county clerk and recorder or designated election official may satisfy the requirements of subsection (4.3)(c)(I) of this section by:

(A) Collecting and transporting the ballots to the central counting location for receipt into the statewide voter registration system; or

(B) Collecting and transporting the ballots to the nearest voter service and polling center for receipt into the statewide voter registration system.

(III) A county clerk and recorder may request a waiver from the secretary of state exempting the county from the drop box ballot collection requirements in subsection (4.3)(c)(I) of this section. If the secretary of state grants the waiver, the county clerk shall arrange for the collection of ballots by bipartisan teams of election judges from all exempt drop box locations once they are open as often as necessary, but at least once each week after the initial mailing of ballots under subsection (3)(a)(I) of this section, until the Friday before election day. The county clerk must post a notice on each exempt drop box of the dates and approximate times ballots will be collected.

(4.5) (a) (I) For any primary or November coordinated election, the county clerk and recorder shall designate voter service and polling centers equal to no fewer than the number of county motor vehicle offices in the county; except that each county shall have no fewer than one voter service and polling center, and, for counties with fewer than twenty-five thousand active registered electors, only one voter service and polling center is required. The county clerk and recorder may add additional voter service and polling center locations as necessary.

(II) Repealed.

(III) (A) For a presidential primary or November coordinated election, from the eighth day before the election until the second day before the election, the county clerk and recorder shall designate at least one voter service and polling center on each campus of an institution of higher education, as defined in section 23-3.1-102 (5), that has ten thousand or more enrolled students, and on the day before the election and on election day, the county clerk and recorder shall designate at least one voter service and polling center on each campus of an institution of higher education located within the county that has two thousand or more enrolled students as determined in accordance with section 1-5-102.9 (1)(b.5)(III).

(B) In a county described in section 1-5-102.9 (1)(a)(I) or (1)(a)(II), a voter service and polling center designated in accordance with this subsection (4.5)(a)(III) may count toward the minimum requirements of subsection (4.5)(a)(I) of this section. In all other counties, a voter service and polling center designated in accordance with this subsection (4.5)(a)(III) must be in addition to the minimum requirements of subsection (4.5)(a)(I) of this section.

(b) (Deleted by amendment, L. 2013.)

(b.5) For any election, other than a general, primary, or November coordinated election, for which the county clerk and recorder is the designated election official, the county clerk and recorder shall designate at least one voter service and polling center for each thirty thousand current active registered electors who are eligible to vote in that election.

(c) The minimum number of voter service and polling centers shall be open during, at a minimum, the eight days prior to and including the day of the election; except that voter service and polling centers are not required to be open on Sundays.

(d) In designating voter service and polling centers under this subsection (4.5), a county clerk and recorder shall take into account the factors described under section 1-5-102.9 (1)(c)(I).

(4.7) For the purposes of subsections (4.3) and (4.5) of this section, the number of active registered electors in a county is the number of active electors registered in the county on the date of the previous presidential election or on the date of the last general election, whichever is greater.

(5) (a) Once the ballot is returned, an election judge shall first qualify the submitted ballot by comparing the information on the return envelope with the registration records to determine whether the ballot was submitted by an eligible elector who has not previously voted in the election. If the ballot so qualifies and is otherwise valid, the election judge shall indicate in the pollbook that the eligible elector cast a ballot and deposit the ballot in an official ballot box.

(b) (Deleted by amendment, L. 2010, (HB 10-1116), ch. 194, p. 834, § 20, effective May 5, 2010.)

(c) For any election conducted with or coordinated by a county clerk and recorder, the signature of the eligible elector on the return envelope shall be compared with the signature of the eligible elector on file in the office of the county clerk and recorder or in the statewide voter registration system in accordance with section 1-7.5-107.3.

(6) All deposited ballots shall be counted as provided in this article and by rules promulgated by the secretary of state. A mail ballot is valid and shall be counted only if it is returned in the return envelope, the self-affirmation on the return envelope is signed and completed by the eligible elector to whom the ballot was issued, and the information on the return envelope is verified in accordance with subsection (5) of this section. Mail ballots shall be counted in the same manner provided by section 1-7-307 for counting paper ballots or section 1-7-507 for counting electronic ballots. If the election official determines that an eligible elector to whom a replacement ballot has been issued has returned more than one ballot, the first ballot received is the accepted ballot. All candidates and issues for which the voter is eligible to vote will be counted on the accepted ballot. Rejected ballots shall be handled in the same manner as provided in sections 1-7.5-204 and 1-7.5-210.

(7) If, by the close of polls, an elector deposits a ballot at a drop-off location in a county in which the elector does not reside, the county clerk and recorder, upon discovering that fact, shall timely deliver the ballot to the county clerk and recorder of the county in which the elector resides, who shall accept the ballot for processing.

Source: L. 92: Entire article R&RE, p. 754, § 10, effective January 1, 1993. **L. 93:** (3)(c) and (5) amended, p. 1767, § 10, effective June 6; (2)(b) amended, p. 1423, § 84, effective July 1. **L. 94:** (2)(a), (3)(c), (3)(d), and (4)(b) amended, p. 1167, § 41, effective July 1. **L. 95:** (2), (3)(a),

(3)(d), and (5) amended, p. 841, § 62, effective July 1. **L. 96:** (2)(b) and (6) amended, pp. 1749, 1774, §§ 45, 79, effective July 1. **L. 97:** (3)(a) and (3)(c) amended, p. 186, § 6, effective August 6. **L. 99:** (2.5) added, p. 776, § 58, effective May 20. **L. 2001:** (3)(b.5) added and (6) amended, pp. 1003, 1004, §§ 11, 12, effective August 8. **L. 2002:** (4)(b) amended, p. 1634, § 17, effective June 7. **L. 2003:** (3)(b.5), (4), (5), and (6) amended, p. 1278, § 6, effective April 22; (3.5) added, p. 2078, § 15, effective May 22. **L. 2004:** (4)(a) and (5)(b) amended and (4)(c) and (4)(d) repealed, pp. 1053, 1054, §§ 6, 9, effective May 21. **L. 2005:** (3.5)(d) and (5)(b) amended, p. 1410, § 28, effective June 6; (3.5)(d) and (5)(b) amended, p. 1445, § 28, effective June 6. **L. 2006:** IP(3.5)(a) amended, p. 2033, § 13, effective June 6. **L. 2007:** (6) amended, p. 1981, § 31, effective August 3. **L. 2008:** (3)(b.5)(III) added and (5)(c) amended, p. 358, §§ 3, 4, effective April 10. **L. 2009:** (2.3), (4.3), and (4.5) added and (2.5)(a), (3)(a), and (3)(c) amended, (HB 09-1015), ch. 259, p. 1185, § 6, effective August 5; (3)(b.5)(I) amended, (HB 09-1216), ch. 165, p. 729, § 3, effective August 5; (3.5)(d) amended, (HB 09-1337), ch. 262, p. 1201, § 1, effective August 5. **L. 2010:** (3)(a)(I), (4.3)(b), (4.5)(c), and (5)(b) amended, (HB 10-1116), ch. 194, p. 834, § 20, effective May 5. **L. 2012:** (2.7) added and (5)(c) amended, (HB 12-1292), ch. 181, p. 686, § 33, effective May 17. **L. 2013:** (2)(a), (2.3)(a), (2.5)(a), (3)(a), (3)(c), (3)(d), (3.5)(c), (3.5)(d), (4)(b), (4.3), (4.5), and (6) amended, (HB 13-1303), ch. 185, p. 727, § 86, effective May 10. **L. 2014:** (4.3)(a) and (4.5)(a) amended and (4)(b)(IV), (4.5)(b.5), and (7) added, (SB 14-161), ch. 160, p. 563, § 17, effective May 9; (3)(a)(II) amended, (HB 14-1363), ch. 302, p. 1261, § 1, effective May 31. **L. 2016:** (2), (2.5), and (3)(c) repealed and (3)(a), (3)(d), (3.5)(a), IP(3.5)(f), (3.5)(f)(I), and (3.5)(f)(II) amended, (SB 16-142), ch. 173, p. 582, § 53, effective May 18. **Initiated 2016:** (2.3) deleted and (2.5)(a)(II) amended, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2826. **L. 2017:** (2.5)(a)(II) repealed and (3)(a)(II) amended, (SB 17-305), ch. 216, p. 844, § 5, effective August 9. **L. 2018:** (2.7) amended, (SB 18-233), ch. 262, p. 1613, § 28, effective May 29. **L. 2019:** (2.7), (3)(a)(I), (3)(a)(II), (3.5)(b), (3.5)(d), (4)(b)(I)(A), (4)(b)(II), (4.3), and (4.5)(a)(I) amended, (4.5)(a)(II)(B) repealed, and (4.5)(a)(III) and (4.7) added, (HB 19-1278), ch. 326, p. 3030, § 41, effective August 2; (3)(b.5)(I) amended, (SB 19-235), ch. 329, p. 3057, § 11, effective August 2. **L. 2020:** (3)(d) amended, (HB 20-1313), ch. 260, p. 1254, § 2, effective September 14. **L. 2021:** (3)(a)(II), (3)(b.5)(I), and (4.3)(a)(III) amended, (SB 21-250), ch. 282, p. 1649, § 38, effective June 21. **L. 2023:** (3.5)(d) amended and (4.3)(c) added, (SB 23-276), ch. 399, p. 2386, § 33, effective June 6; (4.5)(a)(III)(A) amended, (SB 23-276), ch. 399, p. 2386, § 33, effective January 1, 2024. **L. 2024:** (3)(a)(I) amended and (4.3)(c)(III) added, (SB 24-210), ch. 468, p. 3255, § 38, effective June 6. **L. 2026:** (3.5)(d)(I) and (4.3)(a)(II) amended, (HB 26-1113), ch. 267, p. 1508, § 52, effective June 1; (3)(a)(I) and (3)(a)(II) amended, (HB 26-1113), ch. 267, p. 1508, § 52, effective July 1.

Editor's note: (1) This section is similar to former § 1-7.5-107 as it existed prior to 1992.

(2) Subsection (2.5) was repealed by SB 16-142, effective May 18, 2016; however, in order to give effect to Proposition 108, the repeal of subsection (2.5)(a)(II) by SB 16-142 was superseded by Proposition 108 approved by the voters November 8, 2016, and effective upon proclamation of the governor on December 27, 2016. Subsection (2.5)(a)(II) was subsequently repealed by SB 17-305, effective August 9, 2017. For amendments to subsection (2.5)(a)(II) in Proposition 108 in effect from December 27, 2016, to August 9, 2017, see section 10 on p. 2826, Session Laws of Colorado 2017.

(3) This section was amended by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

(4) Subsection (4.5)(a)(II)(C) provided for the repeal of subsections (4.5)(a)(II)(A) and (4.5)(a)(II)(C), effective January 1, 2017. (See L. 2014, p. 563.)

Cross references: (1) In 2013, subsections (2)(a), (2.3)(a), (2.5)(a), (3)(a), (3)(c), (3)(d), (3.5)(c), (3.5)(d), (4)(b), (4.3), (4.5), and (6) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Requirement that voter affix a postage stamp to a mail ballot in order to vote in a mail ballot election does not constitute an unconstitutional poll tax. Bruce v. City of Colo. Springs, 971 P.2d 679 (Colo. App. 1998).

City's failure to include the words "address correction requested" on the mail ballot packet did not constitute a lack of substantial compliance with this section. Bruce v. City of Colo. Springs, 971 P.2d 679 (Colo. App. 1998).

1-7.5-107.2. Manner of early voting - securing ballots cast during early voting.

(1) An eligible elector who receives a mail ballot may cast the ballot at a voter service and polling center prior to election day. Ballot boxes must be locked and sealed each night with a numbered seal under the supervision of the election judges or watchers, and the designated election official shall retain possession of the keys until he or she transfers the same to the counting place pursuant to section 1-7.5-203 for preparation to count and tabulate. When a seal is broken, the designated election official and a person who is not of the same political party as the designated election official shall record the number of the seal and maintain the seal along with an explanation of the reasons for breaking the seal.

(2) (a) Except as provided in paragraph (b) of this subsection (2), the voting machines, electronic voting machines, or ballot boxes must remain locked and secured with a numbered seal, and the tabulation of the votes cast must remain unknown until the time prescribed in section 1-7.5-202 for counting voters' ballots. Alternatively, except for electronic voting equipment and mail ballot boxes, the ballot boxes must be opened each night, and the voted ballots must be placed in a transfer case that is locked and secured with a numbered seal. A record must be maintained consisting of the date and seal number of each ballot box and transfer case until each ballot box and transfer case is transferred pursuant to section 1-7.5-203 for preparation for counting and tabulating. When a seal is broken, the designated election official and a person who is not of the same political party as the designated election official shall record the number of the seal and maintain the seal along with an explanation of the reasons for breaking the seal. During the time the voter service and polling center is not open, the designated election official shall have the custody and keys of any voting machine or electronic voting equipment being used for the casting of ballots.

(b) The designated election official shall place in a locked and secured location all direct record electronic voting machine cartridges that record votes cast on such voting machines. The tabulation of votes cast and recorded on such cartridges must remain unknown until the time prescribed in section 1-7.5-202 for counting ballots.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 732, § 87, effective May 10.

Cross references: In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-107.3. Verification of signatures - rules.

(1) (a) Except as provided in subsection (5) of this section, in every mail ballot election that is coordinated with or conducted by the county clerk and recorder, an election judge shall compare the signature on the self-affirmation on each return envelope with the signature of the eligible elector stored in the statewide voter registration system in accordance with subsections (2), (3), and (4) of this section.

(b) (Deleted by amendment, L. 2008, p. 356, § 2, effective April 10, 2008.)

(1.5) (a) If an eligible elector returns a ballot but does not have a signature stored in the statewide voter registration system, the county clerk and recorder shall, within three days after the missing signature is confirmed, but in no event later than two days after election day, send to the eligible elector at the address indicated in the registration records and to the eligible elector's electronic mail address if available a letter explaining the need for a signature for verification purposes and a form with instructions for the eligible elector to:

(I) Confirm that the eligible elector returned a ballot to the county clerk and recorder;

(II) Provide a copy of the eligible elector's identification as defined in section 1-1-104 (19.5); and

(III) Provide a signature for verification in accordance with this section.

(a.5) If the county clerk and recorder fails to send the letter and form required by subsection (1.5)(a) of this section within two days after the election, the county clerk and recorder must send the letter and form to the eligible elector by overnight mail or hand delivery, or by the most expedient method available for overseas and military voters.

(b) If the county clerk and recorder receives the form within eight days after election day confirming that the eligible elector returned a ballot to the county clerk and recorder and enclosing a copy of the eligible elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector returns the form indicating that the eligible elector did not return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day or does not enclose identification, the ballot shall not be counted.

(c) An original return envelope containing a voted ballot that is not counted in accordance with subsection (1.5)(b) of this section shall be stored under seal as an election record in the office of the county clerk and recorder in a secure location separate from valid return envelopes and may be removed only under the authority of the district attorney or by order of a court having jurisdiction.

(d) (I) The county clerk and recorder or designated election official, within twenty-four hours of receiving the eligible elector's signed form and identification in compliance with subsection

(1.5)(b) of this section, shall update the statewide voter registration system to indicate that the eligible elector has cured the deficiency on their ballot. The clerk and recorder or designated election official is not required to update the statewide voter registration system pursuant to this subsection (1.5)(d) on a Saturday, Sunday, or a legal holiday unless, on the Thursday immediately following election day, the clerk and recorder or designated election official's review of the remaining number of letters issued but not returned pursuant to subsections (1.5)(a) and (2)(a) of this section and section 1-7.5-107 (3.5)(d)(I) indicates that the margin for any ballot contest or ballot question is greater than the remaining number of letters issued to voters eligible to vote on a particular ballot contest or ballot question could not potentially move the margin of that ballot contest or ballot question into a mandatory recount pursuant to section 1-10.5-101 (1)(b), if returned.

(II) For state-certified ballot contests and ballot measures, the secretary of state's office shall complete the review pursuant to subsection (1.5)(d)(I) of this section.

(2) (a) If, upon comparing the signature of an eligible elector on the self-affirmation on the return envelope with the signature of the eligible elector stored in the statewide voter registration system, the election judge determines that the signatures do not match, or if a signature verification device used pursuant to subsection (5) of this section is unable to determine that the signatures match, two other election judges of different political party affiliations shall simultaneously compare the signatures. If both other election judges agree that the signatures do not match, the county clerk and recorder shall, within three days after the signature deficiency has been confirmed, but in no event later than two days after election day, send to the eligible elector at the address indicated in the registration records and to the eligible elector's electronic mail address if available a letter explaining the discrepancy in signatures and a form for the eligible elector to confirm that the elector returned a ballot to the county clerk and recorder; except that, if the county clerk and recorder fails to send the letter and form required by this subsection (2)(a) within two days after the election, the county clerk and recorder must send the letter and form to the eligible elector by overnight mail or hand delivery, or by the most expedient method available for overseas and military voters. If the county clerk and recorder receives the form within eight days after election day confirming that the elector returned a ballot to the county clerk and recorder and enclosing a copy of the elector's identification as defined in section 1-1-104 (19.5), and if the ballot is otherwise valid, the ballot shall be counted. If the eligible elector returns the form indicating that the elector did not return a ballot to the county clerk and recorder, or if the eligible elector does not return the form within eight days after election day, the self-affirmation on the return envelope shall be categorized as incorrect, the ballot shall not be counted, and the county clerk and recorder shall send copies of the eligible elector's signature on the return envelope and the signature stored in the statewide voter registration system to the district attorney for investigation.

(b) An original return envelope containing a voted ballot that is not counted in accordance with subsection (2)(a) of this section shall be stored under seal in the office of the county clerk

and recorder in a secure location separate from valid return envelopes and may be removed only under the authority of the district attorney or by order of a court having jurisdiction.

(c) In the case of a disagreement among the election judges as to whether the signature of an eligible elector on the self-affirmation on the return envelope matches the signature of the eligible elector stored in the statewide voter registration system pursuant to the procedures specified in paragraph (a) of this subsection (2), the signatures are deemed to match, and the election judge shall follow the procedures specified in section 1-7.5-107 (6) concerning the qualification and counting of mail ballots.

(d) (I) The county clerk and recorder or designated election official, within twenty-four hours of receiving an eligible elector's signed form and identification in compliance with subsection (2)(a) of this section, shall update the statewide voter registration system to indicate that the eligible elector has cured the deficiency on their ballot. The clerk and recorder or designated election official is not required to update the statewide voter registration system pursuant to this subsection (2)(d) on a Saturday, Sunday, or legal holiday unless, on the Thursday immediately following election day, the clerk and recorder or designated election official's review of the remaining number of letters issued but not returned pursuant to subsections (1.5)(a) and (2)(a) of this section and section 1-7.5-107 (3.5)(d)(I) indicates that the margin for any ballot contest or ballot question is greater than the remaining number of letters issued or indicates that the remaining number of letters issued to voters eligible to vote on a particular ballot contest or ballot question could not potentially move the margin of that ballot contest or ballot question into a mandatory recount pursuant to section 1-10.5-101 (1)(b), if returned.

(II) For state-certified ballot contests and ballot measures, the secretary of state's office shall complete the review pursuant to subsection (2)(d)(I) of this section.

(3) If the election judge determines that the signature of an eligible elector on the self-affirmation matches the elector's signature stored in the statewide voter registration system, the election judge shall follow the procedures specified in section 1-7.5-107 (6) concerning the qualification and counting of mail ballots.

(4) (a) An election judge shall not determine that the signature of an eligible elector on the self-affirmation does not match the signature of that eligible elector stored in the statewide voter registration system solely on the basis of substitution of initials or use of a common nickname.

(b) The county clerk and recorder shall provide training in the technique and standards of signature comparison to election judges who compare signatures pursuant to this section.

(5) (a) A county clerk and recorder may allow an election judge to use a signature verification device to compare the signature on the self-affirmation on a return envelope of an eligible elector's ballot with the signature of the elector stored in the statewide voter registration system in accordance with this subsection (5) and any rules promulgated by the secretary of state pursuant to subsection (6) of this section.

(b) If a signature verification device determines that the signature on the self-affirmation on a return envelope of an eligible elector's ballot matches the signature of the elector stored in the statewide voter registration system, the signature on the self-affirmation is deemed verified, and the election judge shall follow the procedures specified in section 1-7.5-107 (6) concerning the qualification and counting of mail ballots. If a signature verification device is unable to determine that the signature on the self-affirmation on a return envelope of an eligible elector's mail ballot matches the signature of the elector stored in the statewide voter registration system, an election judge shall compare the signatures in accordance with subsections (2), (3), and (4) of this section.

(5.5) The county clerk and recorder shall ensure the privacy of each elector's vote when election judges are removing and separating marked ballots from return envelopes. If the county clerk and recorder chooses not to include a secrecy envelope or sleeve in the mail ballot packet, he or she must notify the secretary of state in the election plan required under section 1-7.5-105 (1) and must also explain the county's process for ensuring the privacy of marked ballots. The secretary of state shall promulgate rules to ensure the privacy of each elector's vote.

(6) The secretary of state shall adopt rules in accordance with article 4 of title 24, C.R.S., establishing procedures for using signature verification devices to process ballots used in mail ballot elections pursuant to this article.

(7) Each county clerk and recorder shall, as soon as practical, develop and implement options for electors to electronically provide necessary documentation for signature verification.

Source: L. 2003: Entire section added, p. 1280, § 7, effective April 22; entire section added, p. 1438, § 2, effective April 29. **L. 2004:** (2)(c) amended, p. 1186, § 3, effective August 4. **L. 2005:** (2)(a) amended, p. 1411, § 29, effective June 6; (2)(a) amended, p. 1446, § 29, effective June 6. **L. 2008:** (1), (2)(a), (2)(c), (3), and (4)(a) amended and (5) added, p. 356, § 2, effective April 10. **L. 2009:** (2)(a) amended, (HB 09-1337), ch. 262, p. 1201, § 2, effective August 5. **L. 2010:** Entire section amended, (HB 10-1116), ch. 194, p. 835, § 21, effective May 5. **L. 2013:** (4)(b) and (5)(a) amended and (6) added, (HB 13-1303), ch. 185, p. 733, § 88, effective May 10. **L. 2014:** (4)(b) amended, (SB 14-161), ch. 160, p. 564, § 18, effective May 9. **L. 2018:** (2)(b) amended and (5.5) added, (SB 18-233), ch. 262, p. 1613, § 29, effective May 29. **L. 2019:** (2)(a) amended, (HB 19-1278), ch. 326, p. 3033, § 42, effective August 2; (1.5) and (7) added, (SB 19-235), ch. 329, p. 3055, § 7, effective July 1, 2020. **L. 2023:** (1.5)(d) and (2)(d) added, (SB 23-276), ch. 399, p. 2388, § 34, effective June 6. **L. 2024:** (1.5)(d)(I) and (2)(d)(I) amended, (HB 24-1450), ch. 490, p. 3402, § 1, effective August 7. **L. 2026:** (1.5)(a.5) added and (2)(a) amended, (HB 26-1113), ch. 267, p. 1509, § 53, effective June 1.

Editor's note: Amendments to this section by House Bill 03-1241 and Senate Bill 03-102 were harmonized.

Cross references: (1) In 2013, subsections (4)(b) and (5)(a) were amended and subsection (6) was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-7.5-107.5. Counting mail ballots.

The election officials at the mail ballot counting place may receive and prepare mail ballots delivered and turned over to them by the designated election official for tabulation. Counting of the mail ballots may begin fifteen days prior to the election, and counties with more than ten thousand active electors as of the date of the previous general election must begin no later than four days prior to the election, and continue until counting is completed. The election official in charge of the mail ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.

Source: L. 99: Entire section added, p. 777, § 59, effective May 20. **L. 2009:** Entire section amended, (HB 09-1336), ch. 261, p. 1198, § 6, effective August 5. **L. 2023:** Entire section amended, (SB 23-276), ch. 399, p. 2389, § 35, effective June 6.

1-7.5-108. Mail-in ballots. (Repealed)

Source: L. 92: Entire article R&RE, p. 757, § 10, effective January 1, 1993. **L. 2007:** Entire section amended, p. 1779, § 18, effective June 1. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-108.5. Designation of inactive status in connection with mailing of mail ballots.

In connection with any election conducted on or after May 10, 2013, if a mail ballot sent to a registered elector is returned by the United States postal service as undeliverable, the county clerk and recorder shall mark the registration record of that elector with the word "Inactive". The clerk and recorder shall mail a confirmation card pursuant to section 1-2-605 to any elector whose ballot was returned by the United States postal service as undeliverable.

Source: L. 2008: Entire section added, p. 1742, § 2, effective July 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 733, § 89, effective May 10.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-109. Write-in candidates.

A write-in candidate is allowed in mail ballot elections if the candidate has filed an affidavit of intent with the designated election official pursuant to section 1-4-1101. Ballots for write-in candidates are counted pursuant to section 1-7.5-206.

Source: L. 92: Entire article R&RE, p. 757, § 10, effective January 1, 1993. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 734, § 90, effective May 10.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-110. Challenges.

Votes cast pursuant to this article may be challenged pursuant to and in accordance with law. Any mail ballot election held pursuant to this article shall not be invalidated on the grounds that an eligible elector did not receive a ballot so long as the designated election official for the political subdivision conducting the election acted in good faith in complying with the provisions of this article or with rules promulgated by the secretary of state.

Source: L. 92: Entire article R&RE, p. 757, § 10, effective January 1, 1993.

Editor's note: This section is similar to former § 1-7.5-109 as it existed prior to 1992.

1-7.5-111. Report to the general assembly. (Repealed)

Source: L. 92: Entire article R&RE, p. 757, § 10, effective January 1, 1993. **L. 96:** Entire section repealed, p. 1269, § 192, effective August 7.

1-7.5-112. Repeal of article. (Repealed)

Source: L. 92: Entire article R&RE, p. 757, § 10, effective January 1, 1993. **L. 94:** Entire section repealed, p. 1167, § 42, effective July 1.

1-7.5-113. Voting at group residential facilities.

(1) If a group residential facility does not have mail boxes in which a representative of the United States postal service may directly deposit mail, and more than seven mail ballots are to be sent to that group residential facility, a committee consisting of one employee of the county clerk and recorder of the county in which the facility is located and, where available, a representative appointed by each of the major political parties shall deliver the mail ballots and return the voted ballots to the office of the county clerk and recorder. The delivery of ballots under this section may begin on the forty-fifth day before election day.

(2) For nonpartisan elections, including independent mail ballot elections conducted pursuant to part 11 of article 13.5 of this title, the designated election official shall appoint a committee that consists of two or more election judges or employees or representatives of the designated election official. The voted ballots must be returned to the office of the designated election official.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 734, § 91, effective May 10. **L. 2014:** Entire section amended, (HB 14-1164), ch. 2, p. 72, § 37, effective February 18. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1650, § 39, effective June 21.

Cross references: (1) In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

1-7.5-113.5. Voting at county jails or detention centers - definition.

(1) Each county clerk and recorder shall coordinate with the individual who the county sheriff has designated as the sheriff's designee pursuant to section 30-10-529 at each county jail or detention center to facilitate voting for all confined eligible electors. The clerk and recorder shall provide training and technical assistance to the sheriff's designee and shall, at a minimum, use the materials created by the office of the secretary of state pursuant to section 1-1-107 (8).

(2) The election plan required by section 1-7.5-105 must include the following information:

(a) How the county clerk and recorder will provide each county jail or detention center with voter information materials consistent with the materials provided to nonconfined eligible electors, including at a minimum a list of acceptable forms of identification under section 1-1-104 (19.5) and the information required by sections 1-40-124.5 and 1-40-125, and how the sheriff's designee will ensure reasonable access to such materials and information in accordance with section 30-10-529 (3);

(b) The process by which the county clerk and the sheriff's designee will facilitate voter registration, each of the services required during in-person voting set forth in subsection (4) of this section, and delivery and retrieval of mail ballots for confined eligible electors;

(c) (Deleted by amendment, L. 2024).

(d) The number of confined eligible voters who registered to vote in the prior year and the number of confined eligible voters who voted in the last November election; and

(e) How the clerk and recorder and the sheriff's designee will facilitate the process for a confined eligible elector to cure a deficiency on the confined eligible elector's ballot pursuant to sections 1-7.5-107 (3.5) and 1-7.5-107.3 (1.5).

(3) (a) After ballots have been delivered pursuant to the process identified in subsection (2)(b) of this section, the sheriff's designee shall inspect all outgoing mail at the county jail or

detention facility for ballots and shall ensure that any ballots in outgoing mail are placed instead in a designated location for collection.

(b) By no later than 9:00 a.m. on election day, the sheriff's designee shall ensure that confined individuals have information regarding the location where confined eligible electors must deposit their ballots and the latest time on election day that ballots may be deposited at the designated location.

(c) (I) Beginning not earlier than 3:00 p.m. on election day, a team of bipartisan election judges acting at the direction of the clerk and recorder of the county in which the jail or detention center is located shall conduct a final collection of ballots that have been deposited at the designated location.

(II) As used in this subsection (3)(c), "election judge" has the same meaning as set forth in section 1-6-100.3 (1).

(4) (a) (I) For a general election, the sheriff's designee shall coordinate with the county clerk and recorder to provide, at a minimum, one day of in-person voting for confined eligible electors at the county jail or detention center. The in-person voting must be held on any day between the fifteenth day before election day and the second day before election day and must be open for a minimum number of hours based on the number of beds available in the county jail or detention center as follows:

(A) Six hours for one hundred or more beds;

(B) Four hours for fifty or more but fewer than one hundred beds; and

(C) Three hours for one or more but fewer than fifty beds.

(II) If, on the date that in-person voting is scheduled for, access to the county jail or detention center is unavailable due to a lock down or other exigent circumstances, then the sheriff's designee shall work with the county clerk and recorder to schedule a different date for in-person voting to be held in accordance with this subsection (4).

(b) During the in-person voting, the county clerk and recorder and the sheriff's designee shall provide:

(I) The ability for a confined individual, if eligible to vote, to register to vote or update the confined individual's voter registration record;

(II) The ability for a confined eligible elector to cast a ballot and do so without violating the confined eligible elector's right to a secret ballot;

(III) The ability for a confined eligible elector who is detained in a county jail or detention center outside the confined eligible elector's county of residence to cast a ballot containing only statewide races and measures;

(IV) Reasonable accommodation in accordance with the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, that allows a confined individual with a disability, if eligible to vote, to register to vote and update the confined individual's voter registration record and a confined eligible elector with a disability to cast a ballot;

(V) The ability to accept mail ballots that are deposited by confined eligible electors;

(VI) The ability for a confined eligible elector to submit a mail ballot cure form pursuant to sections 1-7.5-107 (3.5) and 1-7.5-107.3 (1.5); and

(VII) The ability of a confined individual to cast a provisional ballot.

(5) Before registering a confined individual to vote, updating a confined individual's voter registration, or allowing a confined individual to vote in any election, the county clerk and recorder must access the confined individual's record within the department of corrections' online offender database to confirm that the confined individual is not currently serving a sentence for a felony conviction.

(6) The secretary of state shall promulgate rules in accordance with article 4 of title 24 as may be necessary to administer and enforce the requirements of this section.

Source: L. 2021: Entire section added, (SB 21-250), ch. 282, p. 1650, § 40, effective June 21. **L. 2023:** (2) amended, (SB 23-276), ch. 399, p. 2389, § 36, effective June 6. **L. 2024:** Entire section amended, (SB 24-072), ch. 298, p. 2031, § 3, effective May 31. **L. 2025:** (3)(c)(II) amended, (SB 25-275), ch. 377, p. 2028, § 5, effective August 6. **L. 2026:** (4)(a)(I) amended, (HB 26-1113), ch. 267, p. 1510, § 54, effective June 1.

1-7.5-114. Watchers at voter service and polling centers.

Any political party, candidate, proponents, or opponents of a ballot issue entitled to have watchers at voter service and polling centers each has the right to maintain one watcher in the office of the designated election official and each voter service and polling center during the period in which mail ballots may be applied for or received.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 734, § 91, effective May 10.

Cross references: In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-114.5. Replacement ballots - ballots for new electors - ballots for electors who updated their records.

(1) An eligible elector may obtain a replacement ballot if the ballot that was originally mailed to the elector was destroyed, spoiled, lost, or for some other reason not received by the elector. To obtain a replacement ballot by mail, the elector shall make a request to the county clerk and recorder for a replacement ballot no later than the eighth day before an election. The county clerk shall not mail a replacement ballot to the elector making the request if the clerk has already received a ballot for that election from the elector making the request.

(2) (a) Commencing on the fifteenth day before the election, the county clerk and recorder shall deliver any ballot that must be sent by mail to the United States postal service within two business days after processing a registration application or an update to a voter registration record that requires a new ballot to be sent to an elector.

(b) Commencing on the eleventh day before the election, the county clerk and recorder shall mail all mail ballots to electors by first-class mail.

(c) Commencing on the eighth day before an election, the county clerk and recorder shall deliver to the United States postal service any ballot that must be sent by mail within two business days after receiving a registration application or an update to a voter registration record that results in the issuance of an original or a replacement mail ballot to an elector.

(d) Any county clerk who receives information from the United States postal service or any other third party indicating that ballots have been lost, stolen, or will, for any reason, not be timely delivered to electors, shall report the issue to the secretary of state.

Source: L. 2020: Entire section added, (HB 20-1313), ch. 260, p. 1255, § 3, effective September 14.

1-7.5-115. Emergency voting - replacement ballots - electronic transfer - rules - definition.

(1) (a) (I) An elector may request a replacement ballot by submitting a personally signed, written statement to the county clerk and recorder or designated election official when one of the following applies:

(A) On election day, the eligible elector is confined in a hospital or place of residence;

(B) On election day, the eligible elector's immediate family related to the second degree by blood, adoption, marriage, or civil union partnership is confined in a hospital or place of residence and requires the eligible elector's care or constant presence;

(C) On election day, the elector is a member of a religion that forbids secular activity;

(D) On election day, the elector is employed as a first responder, member of law enforcement, or health care worker and is unable to leave the station, post, or place of employment or is unable to return to the elector's home county; or

(E) Eight or fewer days before the last day of the election, the elector is unable to vote in person due to emergency conditions such as a natural disaster.

(II) Upon receipt of a written statement pursuant to subsection (1)(a)(I) of this section, the county clerk and recorder or designated election official shall provide the replacement ballot at the office of the county clerk and recorder or designated election official during the regular business hours of the office to any authorized representative of the elector.

(III) The authorized representative of the elector shall acknowledge receipt of the replacement ballot with a signature, name, and address of residence.

(IV) As used in this subsection (1)(a), unless the context otherwise requires, "authorized representative" means a person who possesses a written statement from the elector containing the elector's signature, name, and address of residence, indicating that the elector is unable to vote in person after the last day to mail a ballot, and requesting that the replacement ballot be given to the authorized person as identified by name and address of residence.

(b) A replacement ballot under this section must be returned no later than 7 p.m. on the day of the election.

(c) If the eligible elector is unable to have an authorized representative pick up the ballot at the office of the county clerk and recorder or designated election official and deliver it to the eligible elector, the designated election official shall deliver a replacement ballot to the eligible elector by electronic transfer in accordance with the rules of the secretary of state. If the replacement ballot is delivered to the eligible elector by electronic transfer, the eligible elector may return the ballot by electronic transfer as set forth in subsection (4) of this section.

(2) Except as otherwise provided in subsection (4) of this section, after marking the replacement ballot, the eligible elector shall place it in a return envelope provided by the county clerk and recorder or designated election official. The elector shall then fill out and sign the self-affirmation on the envelope, as provided in section 1-7.5-107, on or before election day and return it to the office of the county clerk and recorder or designated election official. Upon receipt of the envelope, the county clerk and recorder or designated election official shall verify the elector's name on the return envelope and shall deposit the envelope in the office in a ballot box that is locked and secured with a numbered seal.

(3) If, following the procedure set forth in this section, the county clerk and recorder or designated election official is unable to provide a replacement ballot to an elector, the county clerk and recorder or designated election official shall provide a replacement ballot to the elector by electronic transfer in accordance with the election rules of the secretary of state. If the replacement ballot is delivered to the eligible elector by electronic transfer, the eligible elector may return the ballot by electronic transfer as set forth in subsection (4) of this section.

(4) (a) If a replacement ballot is delivered to an eligible elector by electronic transfer pursuant to paragraph (c) of subsection (1) of this section or subsection (3) of this section, the eligible elector may return the voted ballot to the county clerk and recorder or designated election official by electronic transfer. In order to be counted, the returned ballot must be received in the office of the county clerk and recorder or designated election official by 7 p.m. on election day. Once the ballot is received, a bipartisan team of judges shall duplicate the ballot, and the ballot shall be counted in the same manner as all other mail ballots. Such judges shall not reveal how the elector has cast his or her ballot.

(b) Any elector who receives a replacement ballot by electronic transfer pursuant to paragraph (c) of subsection (1) of this section or subsection (3) of this section shall be informed in the instructions for completing the ballot that, if the ballot is returned by electronic transfer, the ballot will not be a confidential ballot.

(c) In handling a returned replacement ballot pursuant to this subsection (4), all reasonable means shall be taken to ensure that only the judges are aware of information connecting the elector to the returned ballot.

(d) The secretary of state may prescribe by rule any procedures or requirements as may be necessary to implement this subsection (4). The rules must be promulgated in accordance with article 4 of title 24, C.R.S.

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 734, § 91, effective May 10. **L. 2014:** (1)(a) amended, (SB 14-161), ch. 160, p. 564, § 19, effective May 9. **L. 2024:** (1)(a) R&RE and (1)(b) amended, (SB 24-210), ch. 468, p. 3255, § 39, effective June 6.

Cross references: In 2013, this section was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-116. Applications for absentee ballot. (Repealed)

Source: L. 2013: Entire section added, (HB 13-1303), ch. 185, p. 734, § 91, effective May 10. **L. 2014:** (1)(a) amended, (HB 14-1164), ch. 2, p. 73, § 38, effective February 18. **Initiated 2016:** (1)(b) amended, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2826. **L. 2018:** Entire section repealed, (SB 18-233), ch. 262, p. 1613, § 30, effective May 29.

PART 2

COUNTING MAIL BALLOTS

Cross references: In 2013, this part 2 was added by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-7.5-201. Appointment of election judges for counting mail ballots.

(1) If the county clerk and recorder or designated election official has mailed or delivered mail ballots to five hundred or more electors, the county clerk and recorder or designated election official shall appoint, in addition to the voter service and polling center judges appointed to staff voter service and polling centers described in section 1-7.5-107, at least three counting judges, not more than two of whom shall be from any one major political party. For each additional five hundred mail ballots so mailed or delivered, the county clerk and recorder or designated election official may appoint additional counting judges as needed.

(2) In all political subdivisions in which electronic or electromechanical voting systems are used, the county clerk and recorder or designated election official, for each five hundred mail ballots mailed or delivered, may appoint, in addition to the voter service and polling center judges appointed to staff voter service and polling centers as described in section 1-7.5-107, five counting judges, not more than three of whom shall be from any one major political party in a partisan election.

(3) In political subdivisions to which this section applies and in the event that only two major political parties are represented, the county clerk and recorder or designated election official shall make the appointments so that one major political party is represented by a majority of election judges on the mail ballot receiving board and the other major political party is represented by a majority of election judges on the mail ballot counting board. The county clerk and recorder or designated election official shall appoint those electors certified by the county party chairpersons of the major political parties to the county clerk and recorder as mail ballot receiving judges and mail ballot counting judges. If an elector certified by a major political party is not willing or able to serve, then the major political party that certified the elector may certify

a replacement judge to the county clerk and recorder. If the major political parties do not certify a sufficient number of mail ballot receiving and counting judges, the county clerk and recorder may appoint a sufficient number of qualified electors to serve as mail ballot receiving and counting judges.

(4) In all political subdivisions to which this section applies, where the county clerk and recorder or designated election official has appointed one or more student election judges pursuant to article 6 of this title, the student election judge shall be appointed to serve as a judge for the purpose of counting mail ballots pursuant to this section; except that the student election judge need not satisfy any party affiliation required of election judges by this section.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 737, § 92, effective May 10.

1-7.5-202. Hours a counting place is open for receiving and counting mail ballots.

(1) The election officials at the counting place may receive and prepare for tabulation mail ballots delivered and turned over to them by the county clerk and recorder or designated election official.

(2) Counting of the mail ballots may begin fifteen days prior to the election, and counties with more than ten thousand active electors as of the date of the previous general election must begin no later than four days prior to the election, and shall continue until counting is completed.

(3) The election officials in charge of the counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count may be released by the election officials or watchers until after 7 p.m. on election day.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 738, § 92, effective May 10. **L. 2023:** (2) amended, (SB 23-276), ch. 399, p. 2389, § 37, effective June 6.

1-7.5-203. Delivery of mail ballots to supervisor judge.

At any time during the fifteen days prior to and including the election day, the county clerk and recorder or designated election official shall deliver to the counting place judges all the mail ballot envelopes received up to that time in packages or in ballot boxes that are locked and secured with a numbered seal, and the record of mail ballots as provided for in section 1-7.5-106.5 (3) for which a receipt will be given. The county clerk and recorder or designated election official shall continue to deliver any envelopes containing mail ballots that may be received thereafter up to and including 7 p.m. on election day.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 739, § 92, effective May 10.

1-7.5-204. Preparing to count mail ballots - rejections.

(1) (a) Before opening any mail ballot, one of the receiving judges, in the presence of a majority of the receiving judges, shall inspect the self-affirmation on the return envelope.

(b) The self-affirmation is valid if:

(I) The self-affirmation was completed by the elector;

(II) The self-affirmation was signed by the elector or, if the elector is unable to sign, marked by the elector with or without assistance and witnessed by another person; and

(III) In any election conducted by a county clerk and recorder, the signature on the self-affirmation matches the signature stored in the statewide voter registration system, or the eligible elector's marks on the application and the self-affirmation were witnessed by other persons.

(c) If the self-affirmation is valid, the receiving judge shall open the envelope without defacing the self-affirmation or mutilating the enclosed ballot.

(d) For the purposes of subparagraph (III) of paragraph (b) of this subsection (1), the signatures on an eligible elector's self-affirmation and stored in the statewide voter registration system shall be compared in the manner prescribed by section 1-7.5-107.3.

(2) If the self-affirmation on the return envelope is invalid, the election judges shall mark the envelope "rejected" and shall write on the envelope the reason for the rejection. The envelope shall be set aside without being opened, and the ballot, if cured, shall be counted.

(3) If it appears to the election judges, by sufficient proof, that a mail ballot sent to an elector who died before receiving the ballot contains a forged affidavit, the envelope containing the ballot of the deceased voter shall not be opened, and the election judges shall make notation of the death and fraudulent signature on the back of the envelope. The ballot shall be forwarded to the district attorney for investigation of a violation of section 1-13-106. If a mail ballot envelope contains more than one marked ballot of any one kind, none of the ballots shall be counted, and the election judges shall write the reason for rejection.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 739, § 92, effective May 10. **L. 2014:** (1)(b)(I) amended, (SB 14-161), ch. 160, p. 565, § 20, effective May 9.

1-7.5-205. Counting mail ballots.

(1) Mail ballots and any ballots cast at a voter service and polling center in lieu of a mail ballot must be counted after delivery of the ballots as provided in section 1-7.5-203 and after preparation of the ballots as provided in section 1-7.5-204.

(2) Mail ballots must be counted in one of the following ways:

(a) In counties that use paper ballots, the mail ballots may be counted in the same manner as paper ballots.

(b) Any county may use electronic vote-tabulating equipment for the counting of mail ballots in the same manner provided for the counting of ballots in part 6 of article 5 and parts 4 and 5 of article 7 of this title.

(c) Repealed.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 740, § 92, effective May 10. **L. 2024:** (2)(c) repealed, (SB 24-210), ch. 468, p. 3256, § 40, effective June 6.

1-7.5-206. Paper ballots or electronic system.

In political subdivisions using a ballot card electronic voting system, mail ballots may be cast on paper ballots or may be cast on ballot cards and counted by electronic voting equipment, or both methods may be used.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 740, § 92, effective May 10.

1-7.5-207. Voter verification - mail ballot information.

Each county clerk and recorder shall provide electors, upon request, with information on whether the mail ballot cast by the elector was received by the county clerk and recorder, including an online mail ballot tracking system or response by other electronic or telephonic means.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 740, § 92, effective May 10.

1-7.5-208. Certificate of mail ballots cast - survey of returns.

(1) Repealed.

(2) Upon the survey of the returns of the political subdivision by the board of canvassers formed pursuant to section 1-10-101 or 1-10-201, the board shall include in its abstract of votes the votes cast in the voter service and polling center and counted at the counting place in the manner provided for abstracting votes cast and counted in accordance with article 10 of this title.

(3) (a) (I) The returns certified by the judges and the abstract of votes cast certified by the canvass board shall, except as provided in subparagraph (II) of this paragraph (a), indicate the number of votes cast in each precinct for each candidate and for and against each ballot issue and ballot question and the number of ballots rejected, except as otherwise provided in paragraph (b) of this subsection (3).

(II) For primary and coordinated elections, the judges and canvass board shall either:

(A) Certify the votes cast in each precinct pursuant to subparagraph (I) of this paragraph (a); or

(B) Certify on the returns and the abstract of votes cast the number of votes cast on each ballot style for each candidate and for and against each ballot issue and ballot question and the number of ballots rejected.

(b) If the total number of votes cast and counted in any precinct is less than ten, the returns for all such precincts in the political subdivision shall be reported together.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 740, § 92, effective May 10. **L. 2014:** (1) repealed, (HB 14-1363), ch. 302, p. 1261, § 2, effective May 31.

1-7.5-209. Preservation of rejected mail ballots.

All identification envelopes and mail ballots rejected by the election judges in accordance with section 1-7.5-204 must be returned to the designated election official. All mail ballots received by the county clerk and recorder or designated election official after 7 p.m. on the day of the election, together with the rejected mail ballots returned by the election judges as provided in this section, must remain in the sealed identification envelopes and may be destroyed as provided in section 1-7-802.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 741, § 92, effective May 10.

1-7.5-210. Maintenance of mail ballot election voting records - transmittal of such records to secretary of state.

The county clerk and recorder or designated election official shall maintain a record identifying the name and voting address of each elector who casts a ballot by mail or at a voter service and polling center at any election.

Source: L. 2013: Entire part added, (HB 13-1303), ch. 185, p. 741, § 92, effective May 10.

ARTICLE 8

Mail-in and Early Voting

1-8-101 to 1-8-311. (Repealed)

Source: L. 2014: Entire article repealed, (HB 14-1164), ch. 2, p. 77, § 51, effective February 18.

Editor's note: This article was numbered as article 14 of chapter 49, C.R.S. 1963. For amendments to this article prior to its repeal in 2014, consult the 2013 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

Cross references: For current provisions relating to mail ballots and early voting in nonpartisan local government elections not conducted by county clerk and recorders, see article 13.5 of this title.

ARTICLE 8.3

Uniform Military and Overseas Voters Act

1-8.3-101. Short title.
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emergency authority of secretary of state.

1-8.3-106. Overseas voter's registration address.

1-8.3-107. Methods of registering to vote.

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1-8.3-109. Timeliness of application for ballot.

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1-8.3-116. Publication of election notice.

1-8.3-117. Covered voter may file complaint.

1-8.3-118. Uniformity of application and construction.

1-8.3-119. Relation to electronic signatures in global and national commerce act.

PREFATORY NOTE

Over five million military personnel and overseas civilians face a variety of legal and logistical obstacles to participating in American elections. These problems persist notwithstanding repeated congressional efforts, as well as various state efforts, to facilitate these voters' ability to vote, most prominently the enactment of the Uniformed and Overseas Citizens Absentee Voting Act of 1986 (UOCAVA), and its amendment with the Military and Overseas Voter Empowerment Act of 2009 (MOVE). The obstacles include: difficulties in registering to vote from abroad; ballots or ballot applications that never arrive; frequent changes of address; slow mail delivery times to and from overseas citizens, especially military personnel; failures to complete absentee voting materials properly, including noncompliance with notarization or verification requirements that can be difficult to meet abroad; and difficulties in obtaining information about issues and candidates.

Data from the 2006 federal midterm election provide dramatic evidence of the problems that these voters have recently faced. In 2006 U.S. military personnel were slightly more likely to have registered to vote than the general U.S. population (87% vs. 83%), yet the voter participation rate among the military was about half that of the general population (roughly 20% vs. roughly 40%). Furthermore, only 25% of overseas and military voters who requested an absentee ballot in 2006 completed and

returned one, compared to 85% of all voters who requested an absentee ballot. Meanwhile, more than one in five ballots cast by military service members was rejected.

Although some of these figures improved during the high-interest 2008 presidential election, the overall picture remains troubling. In 2008, roughly two-thirds of those overseas and military voters who requested a ballot returned it, and the rejection rate for those ballots dropped to under one in fifteen ballots. Yet both of these rates remain substantially worse than the comparable 2008 rates for absentee voters generally (which were a return rate of over 90%, and a ballot rejection rate of 1.7%). Meanwhile, according to data collected by the U.S. Election Assistance Commission, fewer than 700,000 absentee ballots were returned by military and overseas voters in 2008. This figure is not much different from the comparable figure for the 2006 federal midterm elections, meaning that the voter participation rate among these voters remained well below 20%, despite the fact that among voters generally the 2008 election produced an overall voter participation rate of over 61%, the largest in four decades. Without additional reforms to the voting processes for military and overseas voters, their ability to participate in American elections likely will continue to suffer.

Strong popular support exists among the American public to make voting much easier and more reliable for these voters than it has been. A 2008 public opinion survey conducted for the Pew Center on the States found "strong universal support . . . across age, regional, and party lines" for the idea that military and overseas voters should be able to participate in elections "back home." A variety of stakeholders who participated in the ULC drafting process for this act were overwhelmingly of a similar disposition.

In important part, the obstacles that overseas and military voters face can be traced to the fact that American elections are conducted at the state and local levels under procedures that often vary dramatically by jurisdiction. This lack of uniformity complicates any federal effort, such as the UOCAVA, to assist these voters to surmount the other major obstacles that they face. For instance, while some states permit overseas absentee ballots to arrive up to ten days after Election Day, other states require that all absentee ballots, including those from overseas, be received by Election Day. Meanwhile, some states permit overseas and military voters to request, and in a smaller number of cases also to cast, an absentee ballot electronically, but other states require transmission by regular mail. Some states require a notary or other witness to vouch for the absentee voter's execution of the absentee ballot affirmation. These and other variations across states both complicate the procedures developed under the UOCAVA to help overseas and military voters, and make it difficult for consular officials, the U.S. military, and non-governmental voting assistance groups to give standard advice to these voters.

In confronting these problems, this act has two independent purposes that can only be achieved through uniform state legislation.

The first is to extend to state elections the assistance and protections for military and overseas voters currently found in federal law, which covers only biennial federal elections. The second is to bring greater uniformity to the military and overseas voting processes, which the several states will continue to have primary responsibility for administering, in both federal and non-federal elections. In addition to these two primary purposes, many provisions of the act also enhance the assistance and protections provided to military and overseas voters, wherever this can be done without compromising the integrity of the voting process or imposing inappropriately on election officials.

Critical to both enhancing and bringing uniformity to the voting process for military and overseas voters is establishing adequate time for this group of voters to request, receive, and return a ballot. Directly related to the amount of time needed to accomplish these voting processes is the extent to which electronic transmission mechanisms are employed. The act requires that electronic transmission methods be available for purposes of requesting and receiving unvoted ballots, but does not require the use of electronic means for transmitting voted ballots. This is because no consensus yet exists on the question of whether and how electronic voting can occur securely and privately. However, using electronic transmission methods for just those steps in the absentee voting process prior to the casting of a ballot (such as registering to vote, requesting an absentee ballot, and receiving a blank ballot) can alone dramatically reduce the time required to permit these voters to vote successfully.

Without uniform state legislation, military and overseas voters will continue to confront a panoply of diverging voting requirements, notwithstanding the important role that UOCAVA has played in facilitating military and overseas voting in federal elections for more than two decades, and the additional enhancements that the MOVE Act of 2009 provides. Accordingly, this act should be widely adopted both to simplify the voting process for these voters, and to extend similar protections to state elections not covered by existing federal law.

1-8.3-101. Short title.

This article may be cited as the "Uniform Military and Overseas Voters Act".

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 664, § 1, effective May 13.

1-8.3-102. Definitions.

In this article 8.3:

(1) "Ballot" means:

(a) A federal write-in absentee ballot;

(b) A ballot specifically prepared or distributed for use by a covered voter in accordance with this article; or

(c) A ballot cast by a covered voter in accordance with this article.

(2) "Covered voter" means:

(a) A uniformed-service voter defined in paragraph (a) of subsection (9) of this section who is a resident of this state but who is absent from this state by reason of active duty and who otherwise satisfies this state's voter eligibility requirements;

(b) An overseas voter who, before leaving the United States, was last eligible to vote in this state and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements;

(c) An overseas voter who, before leaving the United States, would have been last eligible to vote in this state had the voter then been of voting age and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements; or

(d) An overseas voter who was born outside the United States, is not described in paragraph (b) or (c) of this subsection (2), and, except for a state residency requirement, otherwise satisfies this state's voter eligibility requirements if the last place where a parent, legal guardian, spouse, or civil union partner of the voter was, or under this article would have been, eligible to vote before leaving the United States is within this state.

(3) "Dependent" means a spouse, civil union partner, or dependent of a covered voter described in subsection (2) of this section who is a resident of this state but who is absent from the state by reason of the active duty or service of the covered voter.

(4) "Federal postcard application" means the application prescribed under section 101 (b)(2) of the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20301 (b)(2).

(5) "Federal write-in absentee ballot" means the ballot described in section 103 of the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20303.

(6) "Overseas voter" means a United States citizen who is outside the United States.

(7) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(8) "Uniformed service" means:

(a) Active and reserve components of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard of the United States;

(b) The merchant marine, the commissioned corps of the public health service, or the commissioned corps of the national oceanic and atmospheric administration of the United States; or

(c) The National Guard.

(9) "Uniformed-service voter" means an individual who is qualified to vote and is:

(a) A member of the active or reserve components of the Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard of the United States who is on active duty;

(b) A member of the merchant marine, the commissioned corps of the public health service, or the commissioned corps of the national oceanic and atmospheric administration of the United States;

(c) A member on activated status of the National Guard; or

(d) A spouse, civil union partner, or dependent of a member referred to in this subsection (9).

(10) "United States", used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 664, § 1, effective May 13. **L. 2013:** (3) and (9)(d) amended, (HB 13-1303), ch. 185, p. 744, § 104, effective May 10. **L. 2014:** (2)(d) amended, (SB 14-161), ch. 160, p. 565, § 21, effective May 9. **L. 2016:** (4) and (5) amended, (SB 16-142), ch. 173, p. 584, § 54, effective May 18. **L. 2021:** IP, (8)(a), and (9)(a) amended, (HB 21-1231), ch. 206, p. 1076, § 1, effective May 28.

Cross references: In 2013, subsections (3) and (9)(d) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

OFFICIAL COMMENT

The act's definition of the term "covered voter" builds upon the definitions of "absent uniformed service voter" and "overseas voter" in the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 42 U.S.C. § 1973ff-6(1), but simplifies these definitions and expands them to cover members of the National Guard. However,

unlike in the UOCAVA, the act's coverage of uniformed service voters is based on a voter's status as an active member of one of the defined services, whether or not the voter is absent from the place of voting. The definition of "uniformed service voter" does not specify that the place where the voter is qualified to vote be in the enacting state because that would create a problem for a spouse (or dependent) who is eligible to vote in this state but whose uniformed service member is eligible in another state. A uniformed service voter still must meet an enacting state's eligibility requirements (including residency in that state) in order to vote in that state.

The definition of "covered voter," in subsection (2), also extends the act's coverage to U.S. citizens born abroad who have not established a voting residency in the United States. Although UOCAVA makes no provision for these citizens, eighteen states already permit these citizens to participate in at least some elections, if their parents are eligible to vote in that state (or in some cases if they are a spouse or dependent of a person eligible to vote in that state). These states include: Arizona, Colorado (federal offices only), Delaware (federal offices only), Georgia, Hawaii, Illinois, Iowa, Massachusetts, Michigan, Nebraska, New York (federal offices only), North Dakota (federal offices only), Oklahoma, Rhode Island (federal offices only), Tennessee, Washington, West Virginia, and Wisconsin (federal offices only).

The definition makes no distinction between overseas voters merely traveling abroad, voters temporarily living overseas, and voters permanently residing overseas. Other provisions of an enacting state's existing law may do so, however, and may limit the elections in which voters permanently overseas can vote. Without such distinctions elsewhere in existing state law, this act would enable all overseas voters to vote in all elections covered in section 1-8.3-103. Because the act does not require that overseas voters "reside" abroad, it facilitates voting by a wide variety of U.S. citizens, including missionaries, students abroad, and even tourists who because of health or other unanticipated problems or events may have extended their time out of the United States beyond their original plans, but for whom a state's regular absentee balloting process may be difficult to use.

1-8.3-103. Elections covered.

(1) The voting procedures in this article apply to:

(a) A general, congressional vacancy, or primary election for federal office;

(b) A general, recall, or primary election for statewide or state legislative office or state ballot measure;

(c) Any other election coordinated by the county clerk and recorder; and

(d) An election conducted under article 13.5 of this title.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 666, § 1, effective May 13. **L. 2014:** (1)(d) added, (HB 14-1164), ch. 2, p. 73, § 39, effective February 18.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

OFFICIAL COMMENT

The first category of elections delineated in this section is the only category covered by the UOCAVA. However, even for these elections, this act provides additional accommodations to military and overseas voters that are not provided under the UOCAVA. The second and third categories of state and local elections extend the act's accommodations to non-federal elections not within the UOCAVA scope. These two categories are distinguished primarily to permit an enacting state more easily to consider providing different accommodations to military and overseas voters depending on the type of election.

1-8.3-104. Role of secretary of state.

(1) The secretary of state is the state official responsible for implementing this article and the state's responsibilities under the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20301 et seq.

(2) The secretary of state shall make available to covered voters information regarding voter registration procedures for covered voters and procedures for casting ballots. The secretary of state may delegate the responsibility under this subsection (2) only to the state office designated in compliance with section 102 (b)(1) of the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20302 (b)(1).

(3) The secretary of state shall establish an electronic transmission system through which a covered voter may apply for and receive voter registration materials, ballots, and other information under this article.

(4) The secretary of state shall:

(a) Develop standardized absentee-voting materials, including privacy and transmission envelopes and their electronic equivalents, authentication materials, and voting instructions, to be used with the ballot of a voter authorized to vote in any jurisdiction in this state; and

(b) To the extent reasonably possible, coordinate with other states to carry out this subsection (4).

(5) The secretary of state shall prescribe the form and content of a declaration for use by a covered voter to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a covered voter, and timely and proper completion of a ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with this article. The secretary of state shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 666, § 1, effective May 13. **L. 2016:** (1) and (2) amended, (SB 16-142), ch. 173, p. 584, § 55, effective May 18.

OFFICIAL COMMENT

Each state will need to supply the appropriate title for its chief elections authority, whether it is the Secretary of State, head or director of the State Board of Elections, or other official or entity. Where this authority is an organization, rather than an individual, the phrase "state official" in subsection (1) may also merit alternative phrasing. The expectation is that this authority in turn will delegate its duties at least in part to the same office that the state has designated to fulfill the UOCAVA requirement that the state designate a state office to facilitate the state's compliance with the UOCAVA. Other duties may naturally devolve to local election officials, depending on how the state has structured its election processes generally.

In most states, the implementing authority specified in subsection (1) presumably already has authority to promulgate rules according to the existing rulemaking procedures of the state. States in which this rulemaking authority is not already established may wish to include additional language establishing authority to make rules to implement this act.

The requirement that states develop "standardized" voting materials is not meant to require statewide uniformity in voting equipment and processes where such uniformity does not already exist. Thus, in states using different voting systems in different jurisdictions around the state, "standardized" voting materials may include one standard for jurisdictions using one system, and another standard for jurisdictions using another system. Nevertheless, the state's chief elections authority should work with local election officials to simplify and standardize as much as possible the materials provided to voters, including developing standard identifying labels and other markings on such materials to expedite their handling. Such standardization is critical primarily because

it will simplify the voting experiences of covered voters and enable a variety of support groups to provide more effective assistance to these voters as a group. Greater uniformity also should ease administrative duties and facilitate future reforms to the voting process.

The "electronic equivalent" of privacy envelopes and transmission envelopes means at a minimum a template or instructions to accompany the electronic delivery of an unvoted ballot that assist the voter to prepare and use appropriate envelopes to return the voter's marked ballot if the voter is returning the ballot physically through the mail. If a state is allowing a voter to return a marked ballot electronically, the state generally should employ digital encryption or other security measures to provide comparable protection of the integrity and secrecy of the marked ballot.

The electronic transmission method established under subsection (3) should be designed to protect the integrity of the transmission and the privacy of the voter's personal data contained in the transmission. To a similar end, the recent amendments to UOCAVA include provisions requiring that "to the extent practicable," electronic transmission methods "shall ensure that the privacy of the identity and other personal data of an absent uniformed services voter or overseas voter is protected" and also shall "protect the security and integrity of the transmission."

1-8.3-105. Effect of "Uniformed and Overseas Citizens Absentee Voting Act" - emergency authority of secretary of state.

(1) In the event of any conflict between this article and any provisions of the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20301 et seq., the provisions of the federal act shall control, and all designated election officials who are charged with the performance of duties under this code shall perform the duties and discharge the obligations placed upon them by the federal act.

(2) If a national or local emergency arises that makes substantial compliance with the provisions of this article impossible or unreasonable, such as when congress has declared a national emergency or the president has ordered into active military service of the United States any units and members of the National Guard of this state, the secretary of state may prescribe, by emergency orders or rules, such special procedures or requirements as may be necessary to facilitate absentee voting by those members of the military or military support personnel directly affected by the emergency.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 667, § 1, effective May 13. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 585, § 56, effective May 18.

Editor's note: This section is similar to former § 1-8-103 as it existed prior to 2011.

1-8.3-106. Overseas voter's registration address.

In registering to vote, an overseas voter who is eligible to vote in this state shall use and shall be assigned to the voting precinct of the address of the last place of residence of the voter in this state, or, in the case of a voter described by section 1-8.3-102 (2)(d), the address of the last place of residence in this state of the parent or legal guardian of the voter. If that address is no longer a recognized residential address, the voter shall be assigned an address for voting purposes.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 667, § 1, effective May 13.

OFFICIAL COMMENT

This section specifies the address of the last place of residence as the address to be used as the voter registration address, and instructs election officials to assign an administratively convenient address to a voter who has no last place of residence in the state. When election officials must assign a voter a non-standard address, where possible they should place the voter in the same precinct or district as the last place of residence, were it still a recognized residential address.

1-8.3-107. Methods of registering to vote.

(1) To apply to register to vote, in addition to any other approved method, a covered voter may use a federal postcard application, or the application's electronic equivalent.

(2) A covered voter may use the declaration accompanying a federal write-in absentee ballot to apply to register to vote simultaneously with the submission of the federal write-in absentee ballot. If the declaration is received after the election, it shall be treated as an application to register to vote for subsequent elections.

(3) The secretary of state shall ensure that the electronic transmission system described in section 1-8.3-104 (3) is capable of accepting both a federal postcard application and any other approved electronic registration application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to register to vote.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 668, § 1, effective May 13. **L. 2013:** (2) amended, (HB 13-1303), ch. 185, p. 744, § 105, effective May 10. **L. 2018:** (2) amended, (SB 18-233), ch. 262, p. 1614, § 31, effective May 29.

Cross references: In 2013, subsection (2) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

OFFICIAL COMMENT

Both this section and section 1-8.3-108 are designed to encourage the use of the federal postcard application while yet allowing military and overseas voters to use a state's pre-existing voter forms, and to permit states to develop alternative forms if they wish. However, the sections are not intended to require states or local election jurisdictions to revise their existing forms, or to prepare new forms for voters covered under this act. Instead, to the extent that a state's existing forms do not collect sufficient information to properly classify overseas and military voters, section 1-8.3-108 (5) requires voters who use the state forms to affirmatively indicate their status as a covered voter. States that choose to revise their forms for whatever reason should ensure that the revised forms facilitate voting under this act.

1-8.3-108. Methods of applying for ballot - definition.

(1) Repealed.

(2) A covered voter who is not registered to vote in this state may use a federal postcard application or the application's electronic equivalent to apply simultaneously to register to vote under section 1-8.3-107 and for a ballot.

(3) The secretary of state shall ensure that the electronic transmission system described in section 1-8.3-104 (3) is capable of accepting the submission of both a federal postcard application and any other approved electronic ballot application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

(4) A covered voter may use the declaration accompanying a federal write-in absentee ballot as an application for a ballot simultaneously with the submission of the federal write-in absentee ballot.

(5) To receive the benefits of this article, a covered voter shall inform the appropriate election official that the voter is a covered voter. Methods of informing the appropriate election official that a voter is a covered voter include:

(a) The use of a federal postcard application or federal write-in absentee ballot;

(b) The use of an overseas address on an approved voter registration application or ballot application; and

(c) The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a covered voter.

(6) This article does not preclude a covered voter from voting under article 7.5 or 8 of this title.

(7) (a) Notwithstanding any other provision of this section, a covered voter in a hostile fire zone may provide to an officer, either verbally or in writing, the information required for the covered voter to apply for a ballot, and the officer may submit an application for a ballot on behalf of the covered voter. A county clerk and recorder shall accept an unsigned federal postcard application or an unsigned letter of application for a ballot that meets the requirements of this section if the officer submits with the application a signed statement that the covered voter in a hostile fire zone provided to the officer, either verbally or in writing, the information required to apply for a ballot.

(b) As used in this subsection (7), "covered voter in a hostile fire zone" means a covered voter, as that term is defined in section 1-8.3-102 (2)(a), who is located in an area that is designated as a hostile fire zone by the United States secretary of defense at the time he or she makes the request for a ballot.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 668, § 1, effective May 13. **L. 2012:** (7) added, (SB 12-062), ch. 97, p. 327, § 3, effective April 12. **L. 2014:** (1) amended, (HB 14-1164), ch. 2, p. 73, § 40, effective February 18; (4) amended, (SB 14-161), ch. 160, p. 565, § 22, effective May 9. **L. 2016:** (1) repealed, (SB 16-142), ch. 173, p. 593, § 82, effective May 18.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

OFFICIAL COMMENT

The reference in subsection (1) to the voter's "jurisdiction" is a reference to the place where the voter is registered to vote. Both this section and section 1-8.3-107 are

designed to encourage the use of the federal postcard application while yet allowing military and overseas voters to use a state's pre-existing voter forms, and to permit states to develop alternative forms if they wish. However, the sections are not intended to require states or local election jurisdictions to revise their existing forms, or to prepare new forms for voters covered under this act. Instead, to the extent that a state's existing forms do not collect sufficient information to properly classify overseas and military voters, subsection (5) requires voters who use the state forms to affirmatively indicate their status as a covered voter. The language in subsection (4) mirrors language in the first sentence of section 1-8.3-109, and allows covered voters in states with an existing absentee ballot application deadline that is closer than five days before election day to take advantage of that later deadline.

1-8.3-109. Timeliness of application for ballot.

If an applicant wishes to receive a ballot by mail, the application shall be received no later than the close of business on the seventh day before the election.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 669, § 1, effective May 13. **L. 2014:** Entire section amended, (SB 14-161), ch. 160, p. 565, § 23, effective May 9.

OFFICIAL COMMENT

Many states accept regular absentee ballot applications up until just a few days before an election, or later. Because military and overseas voters can use electronic transmission methods both to request and to receive blank ballots, this section allows them to take advantage of an application deadline close to the election.

1-8.3-110. Transmission of unvoted ballots.

(1) For an election described in section 1-8.3-103 for which this state has not received a waiver pursuant to section 579 of the federal "Military and Overseas Voter Empowerment Act", 52 U.S.C. sec. 20302 (g)(2), not later than forty-five days before the election, the election official in each jurisdiction charged with distributing a ballot and balloting materials shall transmit a ballot and balloting materials to all covered voters who by that date submit a valid ballot application.

(2) A covered voter who requests that a ballot and balloting materials be sent to the voter by electronic transmission may choose facsimile transmission or electronic mail delivery, or, if offered by the voter's jurisdiction, other electronic means. The election official in each

jurisdiction charged with distributing a ballot and balloting materials shall transmit the ballot and balloting materials to the voter using the means of transmission chosen by the voter.

(3) If a ballot application from a covered voter arrives after the jurisdiction begins transmitting ballots and balloting materials to voters, the official charged with distributing a ballot and balloting materials shall transmit them to the voter within seventy-two hours after the receipt of the application.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 669, § 1, effective May 13. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 585, § 57, effective May 18.

1-8.3-111. Timely casting of ballot.

To be valid, a ballot shall be received by the appropriate local election official not later than the close of the polls, or the voter shall submit the ballot for mailing, electronic transmission, or other authorized means of delivery not later than 7:00 p.m. mountain time on the date of the election.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 669, § 1, effective May 13.

OFFICIAL COMMENT

Requiring that the ballot be completed by 12:01 a.m. local time on Election Day ensures that covered voters will not be able to cast a vote with knowledge of the election night returns of the jurisdiction whose ballot the voter is voting. One way in which a military-overseas ballot may be submitted for mailing by a uniformed service member is by giving the ballot to the mail clerk or designated service member responsible for handling mail for a particular unit of the uniformed services. Also allowing a valid ballot to be received by local officials through the close of the polls will increase the voting time available in those circumstances in which facsimile or other electronic transmission of voted ballots is permitted.

1-8.3-112. Federal write-in absentee ballot.

(1) A covered voter may use a federal write-in absentee ballot to vote for all offices and ballot measures in an election described in section 1-8.3-103.

(2) The covered voter may designate the candidate by writing in the name of the candidate or by writing in the name of a political party or political organization, in which case the ballot shall be counted for the candidate of that political party or political organization. Any abbreviation, misspelling, or other minor variation in the form of the name of the candidate, political party, or political organization shall be disregarded in determining the validity of the ballot as long as the intention of the covered voter can be ascertained.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 669, § 1, effective May 13.

Editor's note: Subsection (2) is similar to former § 1-8-117 (4)(b) as it existed prior to 2011.

1-8.3-113. Transmission and receipt of ballot.

(1) A covered voter who requested and received ballot materials by electronic transmission may also return the ballot by electronic transmission:

(a) In circumstances where another more secure method, such as returning the ballot by mail, is not available or feasible, as specified in rules promulgated by the secretary of state; or

(b) If the ballot is for a recall election conducted under article 12 of this code.

(2) A valid ballot cast in accordance with section 1-8.3-111 shall be counted if it is received by the close of business on the eighth day after an election at the address that the appropriate state or local election office has specified.

(3) If, at the time of completing a ballot and balloting materials, the voter has declared under penalty of perjury that the ballot was timely submitted, the ballot shall not be rejected as late.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 670, § 1, effective May 13. **L. 2014:** (1) amended, (SB 14-158), ch. 170, p. 622, § 13, effective May 9.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

OFFICIAL COMMENT

The language in subsection (2) is intended to capture the deadline for the event when local election officials complete or certify their official counting of ballots, by whatever name that event is known in the state. Even those ballots of overseas and military voters that arrive after election day can and must be included in these official results if local election officials have received them by the day before the deadline for this event, giving local election officials that day to process them before making their return or certification.

The act precludes rejecting a military-overseas ballot for lack of a postmark (or for a late postmark) in light of the fact that many pieces of military mail enter the postal system through delivery to a mail clerk in a remote location without a postmark, and are only postmarked some days later when they reach a more established facility.

1-8.3-114. Declaration.

A ballot shall include or be accompanied by the signed affirmation required by the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20301 et seq.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 670, § 1, effective May 13. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 585, § 58, effective May 18.

OFFICIAL COMMENT

A declaration made under this section should be structured as an affirmation that plainly subjects a covered voter to the perjury laws of the enacting state.

1-8.3-115. Use of covered voter's electronic-mail address.

(1) The local election official shall request an electronic-mail address from each covered voter who registers to vote after May 13, 2011. An electronic-mail address provided by a covered voter shall not be made available to the public or any individual or organization other than an authorized agent of the local election official and is exempt from disclosure under article 72 of title 24, C.R.S. The address may be used only for official communication with the voter about the voting process, including transmitting ballots and election materials if the voter has requested electronic transmission, and verifying the voter's mailing address and physical location. The request for an electronic-mail address shall describe the purposes for which the electronic-mail address may be used and include a statement that any other use or disclosure of the electronic-mail address is prohibited.

(2) Unless a covered voter applies to be a permanent mail voter pursuant to section 1-13.5-1003, the covered voter who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for electronic delivery of a ballot for all elections held through December 31 of the year following the calendar year of the date of the application or another shorter period the voter specifies. An election official shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable. A covered voter who is entitled to receive a ballot for a primary election under this subsection (2) is entitled to receive a ballot for the general election.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 670, § 1, effective May 13. **L. 2014:** (2) amended, (HB 14-1164), ch. 2, p. 73, § 41, effective February 18.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

OFFICIAL COMMENT

Subsection (1) facilitates the collection of voter e-mail addresses, but depends on assuring voters that their e-mail addresses will not become available for the use of political campaigns and marketers. The subsection allows those jurisdictions that use third-party vendors to print, mail, or otherwise distribute ballots to disclose the e-mail addresses to these vendors, acting as their agents, only for purposes of authorized communications about the voting process. Such jurisdictions should ensure that their vendor contracts properly preclude the vendors from using the addresses other than as authorized by this act. Subsection (2) then ties a voter's ability to make a standing request for a military-absentee ballot to the voter's provision of an e-mail address. This approach is intended to reduce the large quantity of election material that was returned as undeliverable when sent out in hardcopy to an outdated physical address under the now repealed UOCAVA provision that had permitted voters to make a standing request for absentee ballots for two federal election cycles.

1-8.3-116. Publication of election notice.

(1) At least one hundred days before a regularly scheduled election and as soon as practicable before an election not regularly scheduled, the secretary of state shall prepare an election notice to be used in conjunction with a federal write-in absentee ballot. The election notice shall contain a list of all of the federal and state offices that as of that date the secretary of

state expects to be on the ballot on the date of the election. The notice shall also contain specific instructions for how a voter is to indicate on the federal write-in absentee ballot the voter's choice for each office to be filled and for each ballot measure to be contested. The secretary of state shall post the notice on the official website of the secretary of state.

(2) A covered voter may request a copy of an election notice. The county clerk and recorder shall send the notice to the voter by facsimile, electronic mail, or regular mail, as the voter requests.

(3) As soon as ballot styles are certified, and not later than the date ballots are required to be transmitted to voters under article 7.5 or 8 of this title, the secretary of state shall update the notice with the certified statewide ballot questions and candidates for each office.

(4) A county having one or more covered voters and that maintains a website shall provide a link to the election notice maintained on the secretary of state's official website.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 671, § 1, effective May 13.

OFFICIAL COMMENT

This section ensures that election jurisdictions facilitate voting first by making readily available to overseas and military voters a list of the offices and issues to be contested at an upcoming election, and later by also making candidate names readily and quickly available to these voters, thereby permitting voters who have not received the printed ballot to make the most effective use of the federal write-in absentee ballot.

1-8.3-117. Covered voter may file complaint.

Any covered voter alleging a grievance may file a complaint with the secretary of state as specified in section 1-1.5-105.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 671, § 1, effective May 13.

OFFICIAL COMMENT

In addition to providing an enforcement mechanism for other provisions of this act, this section would also empower courts to adopt emergency rules or procedures in the event that exigent circumstances otherwise

make compliance with the act impossible or impracticable.

1-8.3-118. Uniformity of application and construction.

In applying and construing this article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 671, § 1, effective May 13.

OFFICIAL COMMENT

The act also should be construed in harmony with the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. Section 1973ff et seq.

1-8.3-119. Relation to electronic signatures in global and national commerce act.

This article modifies, limits, and supersedes the federal "Electronic Signatures in Global and National Commerce Act", 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede section 101 (c) of that act, 15 U.S.C. sec. 7001 (c), or authorize electronic delivery of any of the notices described in section 103 (b) of that act, 15 U.S.C. sec. 7003 (b).

Source: L. 2011: Entire article added, (HB 11-1219), ch. 176, p. 671, § 1, effective May 13.

ARTICLE 8.5

Provisional Ballots

1-8.5-101. Provisional ballot - entitlement to vote.
1-8.5-101.5. Electronic voting device - use for casting provisional ballot.
1-8.5-102. Form of provisional ballot.
1-8.5-103. Provisional ballot affidavit.
1-8.5-104. Voting procedure - provisional ballot.
1-8.5-105. Verification of provisional ballot information - counting procedure.
1-8.5-106. Counting of provisional ballots.

1-8.5-107. Electors who move before close of registration - effect of provisional ballot. (Repealed)

1-8.5-108. Electors who move after close of registration - effect of provisional ballot. (Repealed)

1-8.5-109. Electors who vote outside precinct of residence - effect of provisional ballot. (Repealed)

1-8.5-110. Handling of provisional ballots - reporting of results.

1-8.5-111. Information system.

1-8.5-112. Rules.

1-8.5-101. Provisional ballot - entitlement to vote.

(1) At any election conducted pursuant to this title, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the registration list or upon examination of the records on file with the county clerk and recorder by election judges at the polling location is entitled to cast a provisional ballot in accordance with this article.

(2) An elector who desires to vote but does not show identification in accordance with section 1-7-110 (2) may cast a provisional ballot.

(3) Repealed.

(4) No elector shall be denied the right to cast a provisional ballot in any election held pursuant to this title.

(5) Repealed.

Source: L. 2005: Entire article added, p. 1415, § 39, effective June 6; entire article added, p. 1450, § 39, effective June 6. **L. 2007:** (3) amended, p. 1794, § 54, effective June 1. **L. 2009:** (3) amended and (5) added, (HB 09-1216), ch. 165, p. 730, § 7, effective August 5. **L. 2013:** (1) amended and (3) repealed, (HB 13-1303), ch. 185, p. 744, § 106, effective May 10. **Initiated 2016:** (5) amended, Proposition 108, effective upon proclamation of the Governor, December 27, 2016. See L. 2017, p. 2827. **L. 2021:** (5) repealed, (SB 21-250), ch. 282, p. 1650, § 41, effective June 21.

Editor's note: This section was amended by initiative in 2016. The vote count on Proposition 108 at the general election held November 8, 2016, was as follows:

FOR: 1,398,577

AGAINST: 1,227,117

Cross references: (1) In 2013, subsection (1) was amended and subsection (3) was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the declaration of the people of Colorado in Proposition 108, see section 1 on p. 2822, Session Laws of Colorado 2017.

1-8.5-101.5. Electronic voting device - use for casting provisional ballot.

(1) An electronic voting device may be used to cast a provisional ballot if the device is certified by the secretary of state for that purpose.

(2) If an electronic voting device that is certified for use with provisional ballots is used in an election, the designated election official shall determine whether electors casting provisional ballots shall use the electronic voting device or paper provisional ballots.

Source: L. 2006: Entire section added, p. 2033, § 15, effective June 6.

1-8.5-102. Form of provisional ballot.

(1) A provisional ballot shall contain text clearly identifying it as a provisional ballot.

(2) An elector casting a provisional ballot shall complete an affidavit and receive information and instructions on the voting and handling of provisional ballots. The secretary of state shall prescribe by rules promulgated in accordance with article 4 of title 24, C.R.S., the language of the affidavit, information, and instructions.

(3) Each polling location using paper provisional ballots must have on hand a sufficient number of provisional ballots in all ballot styles applicable to that polling location and a sufficient number of provisional ballot envelopes.

Source: L. 2005: Entire article added, p. 1415, § 39, effective June 6; entire article added, p. 1450, § 39, effective June 6. **L. 2006:** (2) and (3) amended, p. 2033, § 16, effective June 6. **L. 2013:** (3) amended, (HB 13-1303), ch. 185, p. 745, § 107, effective May 10.

Cross references: In 2013, subsection (3) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-8.5-103. Provisional ballot affidavit.

(1) The provisional ballot affidavit shall contain language prescribed by the secretary of state by rule and shall include an attestation, a notice of perjury, a warning of the penalty for falsifying the affidavit, and information sufficient to verify the elector's eligibility to vote and to register the elector to vote or transfer the elector's registration.

(2) (a) The provisional ballot affidavit shall constitute a voter registration application for the voter for future elections. Any previous voter registration for the voter shall be canceled pursuant to section 1-2-603 (1).

(b) This subsection (2) does not apply to an elector who casts a provisional ballot pursuant to section 1-8.5-101 (2).

Source: L. 2005: Entire article added, p. 1415, § 39, effective June 6; entire article added, p. 1450, § 39, effective June 6. **L. 2013:** (2)(b) amended, (HB 13-1303), ch. 185, p. 745, § 108, effective May 10.

Cross references: In 2013, subsection (2)(b) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-8.5-104. Voting procedure - provisional ballot.

(1) An elector casting a provisional ballot shall complete and sign the provisional ballot affidavit and cast the ballot.

(2) The fact that an elector casts a provisional ballot shall be indicated on the signature card or pollbook next to the elector's name.

(3) The election judge shall examine the provisional ballot affidavit. If the election judge notices that the elector did not sign the affidavit, the election judge shall inform the elector that the provisional ballot will not be counted if the affidavit is not signed.

(4) If an elector who is casting a provisional ballot does not show identification as required by section 1-7-110 (2), the election official shall indicate on a space provided on the provisional ballot envelope that the elector did not show identification.

(5) If paper provisional ballots and envelopes are used in an election, the provisional ballot envelope containing the marked provisional ballot shall be deposited in a ballot container. All paper provisional ballots cast shall remain sealed in their envelopes for return to the county clerk and recorder or designated election official.

(6) After an elector casts a provisional ballot, the election official shall give the elector a written notice that an elector who casts a provisional ballot has the right to know whether the vote was counted and the reason if the provisional ballot was not counted. The notice shall specify the toll-free telephone number, internet website, or other free access system established by the secretary of state or the designated election official by means of which the elector may receive this information about the elector's provisional ballot.

Source: L. 2005: Entire article added, p. 1416, § 39, effective June 6; entire article added, p. 1451, § 39, effective June 6. **L. 2006:** (1) and (5) amended, p. 2033, § 17, effective June 6.

1-8.5-105. Verification of provisional ballot information - counting procedure.

(1) In accordance with this section and using the procedures and databases prescribed by the secretary of state by rules promulgated in accordance with article 4 of title 24, C.R.S., the designated election official shall attempt to verify that an elector who cast a provisional ballot is eligible to vote. The designated election official or designee shall complete the preliminary verification of the elector's eligibility to vote before the ballot is counted in accordance with subsection (4) of this section.

(2) If the elector signs but does not fill in all the information requested on the provisional ballot affidavit, the ballot shall be counted only if the designated election official is able to determine that the elector was eligible to vote in the precinct and county.

(3) (a) If a provisional ballot affidavit is not signed, the designated election official shall send a letter to the elector within three days after the signature deficiency has been confirmed, but in no event later than two days after the election, informing the elector that the affidavit was not signed and that the provisional ballot cannot be counted unless the affidavit is signed. The letter shall state that the elector may come to the office of the county clerk and recorder to sign the provisional ballot affidavit no later than eight days after the election.

(b) If the elector does not sign the provisional ballot affidavit after receiving notice pursuant to paragraph (a) of this subsection (3), the provisional ballot shall not be counted.

(c) The designated election official shall retain a copy of the letter sent pursuant to paragraph (a) of this subsection (3).

(4) The designated election official shall determine the time for the verification and counting of provisional ballots to begin in accordance with rules promulgated by the secretary of state. A board appointed by the designated election official shall count all verified provisional ballots in accordance with the procedure prescribed by the designated election official in accordance with this title and the election rules of the secretary of state.

(5) The designated election official shall complete the verification and counting of all provisional ballots within nine days after a primary, general, odd-year, or coordinated election, or within an alternate period of time, if necessary, as designated by the secretary of state. The designated election official shall count all regular ballots cast in an election before counting any provisional ballots.

Source: L. 2005: Entire article added, p. 1416, § 39, effective June 6; entire article added, p. 1451, § 39, effective June 6. **L. 2006:** (1) and (4) amended, p. 2034, § 18, effective June 6. **L. 2007:** (5) amended, p. 1795, § 55, effective June 1. **L. 2009:** (3)(a) amended, (HB 09-1337), ch. 262, p. 1203, § 6, effective August 5. **L. 2013:** (5) amended, (HB 13-1303), ch. 185, p. 745, § 109, effective May 10. **L. 2018:** (5) amended, (SB 18-233), ch. 262, p. 1615, § 32, effective May 29.

Cross references: In 2013, subsection (5) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-8.5-106. Counting of provisional ballots.

If the designated election official verifies that an elector who cast a provisional ballot in accordance with this article is eligible to vote, the provisional ballot shall be counted. If the elector's registration cannot be verified, the ballot shall not be counted.

Source: L. 2005: Entire article added, p. 1417, § 39, effective June 6; entire article added, p. 1452, § 39, effective June 6.

1-8.5-107. Electors who move before close of registration - effect of provisional ballot. (Repealed)

Source: L. 2005: Entire article added, p. 1417, § 39, effective June 6; entire article added, p. 1452, § 39, effective June 6. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-8.5-108. Electors who move after close of registration - effect of provisional ballot. (Repealed)

Source: L. 2005: Entire article added, p. 1418, § 39, effective June 6; entire article added, p. 1453, § 39, effective June 6. **L. 2006:** (2) and (3) amended, p. 2034, § 19, effective June 6. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-8.5-109. Electors who vote outside precinct of residence - effect of provisional ballot. (Repealed)

Source: L. 2005: Entire article added, p. 1418, § 39, effective June 6; entire article added, p. 1453, § 39, effective June 6. **L. 2006:** Entire section amended, p. 2035, § 20, effective June 6; entire section amended, p. 280, § 1, effective August 7. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-8.5-110. Handling of provisional ballots - reporting of results.

(1) Provisional ballots shall be kept separate from all other ballots and counted separately.

(2) If twenty-five or more provisional ballots are cast and counted in a county, the designated election official shall report the results of voting by provisional ballot as a separate total. If fewer than twenty-five provisional ballots are cast and counted, the results of voting by provisional ballot shall be included in the results of regular voting.

(3) Votes cast by provisional ballot shall not be included in any unofficial results reported and shall be reported only as part of the official canvass.

(4) The designated election official shall keep a log of each provisional ballot cast, each provisional ballot counted, and each provisional ballot rejected. The code for the acceptance or rejection of the provisional ballot as prescribed by the secretary of state shall be marked on the log. The designated election official shall keep all rejected provisional ballots in their unopened envelopes for no less than twenty-five months.

Source: L. 2005: Entire article added, p. 1418, § 39, effective June 6; entire article added, p. 1453, § 39, effective June 6. **L. 2007:** (2) amended, p. 1795, § 56, effective June 1. **L. 2013:** (2) amended, (HB 13-1303), ch. 185, p. 745, § 110, effective May 10.

Cross references: In 2013, subsection (2) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-8.5-111. Information system.

For any election held on or after January 1, 2004, in which a provisional ballot is cast, the county clerk and recorder or designated election official shall establish a system allowing an elector who cast a provisional ballot to discover whether the ballot was counted and, if the ballot was not counted, the reason the ballot was not counted. The system shall provide access to this information at no cost to the voter by toll-free telephone call, internet website, or other suitable medium, in accordance with the federal "Help America Vote Act of 2002", Pub.L. 107-252. Information about a provisional ballot shall be disclosed only to the voter who cast the ballot.

Source: L. 2005: Entire article added, p. 1419, § 39, effective June 6; entire article added, p. 1454, § 39, effective June 6.

1-8.5-112. Rules.

The secretary of state shall promulgate all appropriate rules in accordance with article 4 of title 24, C.R.S., for the purpose of ensuring the uniform application of this article.

Source: L. 2005: Entire article added, p. 1419, § 39, effective June 6; entire article added, p. 1454, § 39, effective June 6.

ARTICLE 9

Challenges

PART 1
CHALLENGES TO REGISTRATION

1-9-101. Challenge of incorrect registration.

PART 2
CHALLENGES TO VOTING

1-9-201. Right to vote may be challenged.

1-9-202. Challenge to be made by written oath.

1-9-203. Challenge questions asked person intending to vote.

1-9-204. Oath of challenged elector. (Repealed)

1-9-205. Refusal to answer questions or take oath. (Repealed)

1-9-206. Challenges of absentee ballots. (Repealed)

1-9-207. Challenges of ballots cast by mail.

1-9-208. Challenges of provisional ballots.

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1-9-210. Copy of challenge delivered to elector.

PART 3
PROVISIONAL BALLOTS

1-9-301 to 1-9-306. (Repealed)

PART 1

CHALLENGES TO REGISTRATION

1-9-101. Challenge of incorrect registration.

(1) (a) Any registered elector may protest the registration of any person whose name appears in a county registration record for the county in which the challenging elector resides. A protest may challenge a person's registration as incorrect because the person is:

(I) Not a citizen of the United States;

(II) Not at least fifteen years old;

(III) Deceased; or

(IV) No longer a resident of the state but has not yet been marked "inactive" in the voter registration record.

(b) A protest must be submitted for each person whose registration is being challenged. The protest must be made in writing on a form prescribed by the secretary of state and must include:

(I) The name of the person whose registration is challenged;

(II) The basis for the challenge, including supporting facts;

(III) All documentary evidence supporting the factual basis for the challenge; and

(IV) The signature and address of the challenger.

(c) A protest must be filed with the county clerk and recorder of the county where the challenged registration record resides no later than one hundred twenty days before any election conducted by that county clerk and recorder. A protest fee of fifty dollars must be paid to the county clerk and recorder responsible for adjudicating the challenge at the time that a protest is submitted. A fee payment is required for each written protest. If a protest is successful, the protest fee must be refunded to the challenger.

(d) Upon receipt of a protest, a county clerk and recorder shall review the protest to determine if it sufficiently alleges a basis for a challenge in accordance with subsection (1)(a) of this section. If a protest does not allege a sufficient basis for a challenge pursuant to this section, the county clerk and recorder shall dismiss the challenge and notify the challenger of the dismissal. If a protest sufficiently alleges a basis for a challenge pursuant to this section, the county clerk and recorder shall notify and mail a copy of the challenge to the person whose registration is being challenged. The county clerk and recorder shall notify the person whose registration is being challenged and the challenger of the date, time, and location set for the challenge hearing required by subsection (1)(e) of this section.

(e) If a county clerk and recorder determines that a protest sufficiently alleges a basis for a challenge pursuant to this section, then the county clerk and recorder must set a hearing date that is no later than thirty days from the date the protest was filed and must provide notice in accordance with subsection (1)(d) of this section. The challenger who submitted the protest must appear at the hearing and shall bear the burden of proving the allegations made in the protest are true. The person whose registration is being challenged must have the opportunity to appear at the hearing but may not be penalized or subject to a negative presumption or inference if they do not appear. The county clerk and recorder shall conduct the hearing and may receive evidence and hear testimony. No later than five days after the date of the hearing, but in no event later than ninety days before an election conducted by the county clerk and recorder, the county clerk and recorder must render a decision in accordance with subsection (1)(f) of this section and notify both parties of the decision.

(f) In rendering a decision after the hearing on a protest, a county clerk and recorder must proceed as follows:

(I) If they find sufficient evidence to support the allegations in the protest, and the basis of the challenge is that the person is deceased, less than fifteen years old, or not a citizen of the United States, the county clerk and recorder shall cancel the person's voter registration record in the statewide voter registration system;

(II) If they find sufficient evidence to support the allegations in the protest, and the basis for the challenge is that the person is not a resident of the state, the county clerk and recorder shall mark the person's voter registration record "inactive", send a confirmation card, and otherwise follow the requirements of section 1-2-302.5; or

(III) If they do not find sufficient evidence to support the allegations in the protest, the county clerk and recorder shall deny the challenge.

(2) All appeals from a decision of the county clerk and recorder must be to the district court and filed within three days from the date the decision is issued. An appellant must file in the district court a verified petition setting forth the facts presented at the hearing, if any, the decision of the county clerk and recorder, and the basis for the appeal. Within twenty-four hours, the clerk of the district court must mail to the other party a notice of the appeal, including the time of any hearing. A hearing must be held no less than three days nor more than five days after the date the verified petition is filed.

(3) (a) A district court must hear testimony and other evidence and investigate summarily any appeal filed pursuant to subsection (2) of this section. Only competent legal evidence may be received at the hearing or considered by the court. No presumption may be made against a person whose registration is challenged merely because of their failure to attend the hearing. The court has the power to subpoena any person as a witness and to make any necessary investigation to ascertain the truth of any charges made in the petition, if the method of investigation does not

cause unnecessary delay or interfere with the final disposition of the protest within the time provided in this section. A hearing on any petition is summary and final and is not subject to delay.

(b) At the close of the hearing, the court must announce if the protest has been sustained. If the protest is sustained, the court shall order the appropriate remedy in accordance with subsection (1)(f) of this section. The court shall direct the clerk of the court to certify the name of the person whose registration is challenged and the remedy to the county clerk and recorder. Upon receipt of the name and remedy, the county clerk and recorder shall take the action required by the court. The decision of the court is final and not subject to review by any other court; except that the supreme court, in its discretion, may review any such proceedings in a summary way.

Source: L. 80: Entire article R&RE, p. 380, § 1, effective January 1, 1981. **L. 87:** (1) and (3) amended, p. 295, § 29, effective June 26. **L. 89:** (3) amended, p. 309, § 20, effective May 9. **L. 91:** (1)(b)(II) amended, p. 637, § 76, effective May 1. **L. 92:** Entire article amended, p. 771, § 12, effective January 1, 1993. **L. 93:** (1)(b)(II) amended, p. 1769, § 16, effective June 6. **L. 97:** (1)(b)(II) amended, p. 477, § 21, effective July 1. **L. 99:** (1)(a) amended, p. 778, § 63, effective May 20. **L. 2000:** (1)(a) amended, p. 301, § 1, effective August 2. **L. 2013:** (1)(b) amended, (HB 13-1303), ch. 185, p. 745, § 111, effective May 10. **L. 2016:** (1)(b)(I), (1)(b)(III), and (3) amended, (SB 16-142), ch. 173, p. 585, § 59, effective May 18. **L. 2026:** Entire section R&RE, (HB 26-1113), ch. 267, p. 1511, § 55, effective June 1.

Editor's note: Prior to its repeal and reenactment in 2026, this section was similar to former § 1-12-101 as it existed prior to 1980.

PART 2

CHALLENGES TO VOTING

1-9-201. Right to vote may be challenged.

(1) (a) A person's right to vote at a polling location or in an election may be challenged on one or more of the following grounds:

(I) The person is not a citizen of the United States;

(II) The person has not resided in the state for twenty-two days immediately preceding the election;

(III) The person will not be eighteen years of age or older on or before election day; or

(IV) If being a property owner or the spouse or civil union partner of a property owner is required for the election, the person is not a property owner or the spouse or civil union partner of a property owner.

(b) If a person whose right to vote is challenged at a polling location refuses to answer the questions asked or sign the challenge form in accordance with section 1-9-203, the person shall be offered a provisional ballot. If the person casts a provisional ballot, the election judge shall attach the challenge form to the provisional ballot envelope and indicate "Challenge" on the provisional ballot envelope.

(2) An election judge shall challenge any person intending to vote who the judge believes is not an eligible elector as provided in subsection (1)(a) of this section. In addition, challenges may be made by watchers or any eligible elector of the precinct as provided in subsection (1)(a) of this section.

(3) A challenge at a polling location shall be made in the presence of the person whose right to vote is challenged.

Source: L. 80: Entire article R&RE, p. 381, § 1, effective January 1, 1981. **L. 92:** Entire article amended, p. 772, § 12, effective January 1, 1993. **L. 2005:** Entire section amended, p. 1419, § 40, effective June 6; entire section amended, p. 1454, § 40, effective June 6. **L. 2013:** (1) and (3) amended, (HB 13-1303), ch. 185, p. 746, § 112, effective May 10. **L. 2021:** (1)(a) and (2) amended, (SB 21-250), ch. 282, p. 1651, § 42, effective June 21. **L. 2022:** (1)(b) amended, (SB 22-212), ch. 421, p. 2964, § 4, effective August 10.

Editor's note: This section is similar to former § 1-8-102 as it existed prior to 1980.

Cross references: In 2013, subsections (1) and (3) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-9-202. Challenge to be made by written oath.

Each challenge must be made by written oath on a form provided by an election judge. The form must include a space for the name of the person challenged and the specific factual basis for the challenge of the person's right to vote as set forth in section 1-9-201 (1)(a) and must be signed by the challenger under penalty of perjury in the second degree, as specified in section 1-

13-104. The election judges shall forthwith deliver all challenges to the designated election official. No oral challenge is permitted.

Source: L. 80: Entire article R&RE, p. 381, § 1, effective January 1, 1981. **L. 92:** Entire article amended, p. 773, § 12, effective January 1, 1993. **L. 2005:** Entire section amended, p. 1420, § 41, effective June 6; entire section amended, p. 1455, § 41, effective June 6. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1651, § 43, effective June 21.

Editor's note: This section is similar to former § 1-8-103 as it existed prior to 1980.

Cross references: For oaths and affirmations generally, see article 12 of title 24.

1-9-203. Challenge questions asked person intending to vote.

(1) (Deleted by amendment, L. 2005, pp. 1420, 1455, §§ 42, 42, effective June 6, 2005.)

(2) If the person is challenged as not eligible because the person is not a citizen, an election judge shall ask the following question:

(a) Are you a citizen of the United States?

(b) (Deleted by amendment, L. 93, p. 1432, § 109, effective July 1, 1993.)

(3) If the person is challenged as not eligible because the person has not resided in this state for twenty-two days immediately preceding the election, an election judge shall ask the following questions:

(a) Have you resided in this state for the twenty-two days immediately preceding this election?

(b) Have you been absent from this state during the twenty-two days immediately preceding this election, and during that time have you maintained a home or domicile elsewhere?

(c) If so, when you left, was it for a temporary purpose with the intent of returning, or did you intend to remain away?

(d) Did you, while absent, look upon and regard this state as your home?

(e) Did you, while absent, vote in any other state or any territory of the United States?

(4) (a) If the person is challenged as not eligible to vote in an election other than a primary election because the person will not be eighteen years of age or older on or before election day,

an election judge shall ask the following question: To the best of your knowledge and belief, will you be eighteen years of age or older on election day?

(b) If the person is challenged as not eligible to vote in a primary election because the person will not be eighteen years of age on or before the date of the next general election, an election judge shall ask the following question: To the best of your knowledge and belief, are you at least seventeen years of age and will you be at least eighteen years of age on or before the date of the next general election?

(5) If the person is challenged as not eligible because the person is not a property owner or the spouse or civil union partner of a property owner, an election judge shall ask the following questions:

(a) Are you a property owner or the spouse or civil union partner of a property owner in this political subdivision and therefore eligible to vote?

(b) What is the address or, for special district elections where an address is not available, the location of the property which entitles you to vote in this election?

(6) Repealed.

(7) If the person challenged answers satisfactorily the questions asked in accordance with this section, the election judge shall offer the person challenged a regular ballot, and the challenger may withdraw the challenge. The election judge shall indicate in the proper place on the challenge form whether the challenge was withdrawn or whether the challenged elector refused to answer the questions and left the polling location without voting a provisional ballot.

(8) Only an election judge or election judge supervisor shall ask the questions required by this section and complete the form as required by subsection (7) of this section. If the challenger is an election judge or election judge supervisor, a different election judge or election judge supervisor shall ask the questions and complete the form as required by this section.

Source: L. 80: Entire article R&RE, p. 382, § 1, effective January 1, 1981. **L. 91:** (3) amended, p. 637, § 77, effective May 1. **L. 92:** Entire article amended, p. 773, § 12, effective January 1, 1993. **L. 93:** (2) and (5)(b) amended, p. 1432, § 109, effective July 1. **L. 94:** IP(3), (3)(a), and (3)(b) amended, p. 1771, § 32, effective January 1, 1995. **L. 95:** (3)(b) amended, p. 843, § 66, effective July 1. **L. 2005:** (1) and (7) amended, p. 1420, § 42, effective June 6; (1) and (7) amended, p. 1455, § 42, effective June 6. **L. 2013:** IP(5), (5)(a), and (7) amended, (HB 13-1303), ch. 185, p. 746, § 113, effective May 10. **L. 2014:** IP(3), (3)(a), (3)(b), and (4) amended, (SB 14-161), ch. 160, p. 566, § 24, effective May 9. **L. 2019:** (4) amended, (HB 19-1278), ch. 326, p. 3033, § 43, effective August 2. **L. 2021:** (6) repealed and (8) added, (SB 21-250), ch. 282, p. 1651, § 44, effective June 21. **L. 2022:** (7) amended, (SB 22-212), ch. 421, p. 2964, § 5, effective August 10.

Editor's note: This section is similar to former § 1-8-104 as it existed prior to 1980.

Cross references: (1) For oaths and affirmations generally, see article 12 of title 24.

(2) In 2013, the introductory portion to subsection (5) and subsections (5)(a) and (7) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

A voter can be challenged only for failure to meet the qualification of elector requirements. Sheldon v. Moffat Tunnel Comm'n, 335 F. Supp. 251 (D. Colo. 1971).

Thus a voter cannot be disenfranchised because he has not paid a property or other ad valorem tax on real estate. Sheldon v. Moffat Tunnel Comm'n, 335 F. Supp. 251 (D. Colo. 1971).

There is no method for verification or challenge of social security number submitted by a registrant. Meyer v. Putnam, 186 Colo. 132, 526 P.2d 139 (1974).

1-9-204. Oath of challenged elector. (Repealed)

Source: L. 80: Entire article R&RE, p. 383, § 1, effective January 1, 1981. **L. 91:** (1) amended, p. 638, § 78, effective May 1. **L. 92:** Entire article amended, p. 774, § 12, effective January 1, 1993. **L. 94:** (1) amended, p. 1771, § 33, effective January 1, 1995. **L. 96:** (1) amended, p. 1763, § 47, effective July 1. **L. 99:** (1) amended, p. 778, § 64, effective May 20. **L. 2005:** Entire section amended, p. 1420, § 43, effective June 6; entire section amended, p. 1455, § 43, effective June 6. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 747, § 114, effective May 10. **L. 2019:** (1) amended, (HB 19-1278), ch. 326, p. 3033, § 44, effective August 2. **L. 2021:** Entire section repealed, (SB 21-250), ch. 282, p. 1672, § 83, effective June 21.

Editor's note: Prior to its repeal, this section was similar to former § 1-8-105 as it existed prior to 1980.

1-9-205. Refusal to answer questions or take oath. (Repealed)

Source: L. 80: Entire article R&RE, p. 383, § 1, effective January 1, 1981. **L. 92:** Entire article amended, p. 774, § 12, effective January 1, 1993. **L. 2005:** Entire section repealed, p. 1425, § 56, effective June 6; entire section repealed, p. 1461, § 56, effective June 6.

1-9-206. Challenges of absentee ballots. (Repealed)

Source: L. 80: Entire article R&RE, p. 383, § 1, effective January 1, 1981. **L. 92:** Entire article amended, p. 775, § 12, effective January 1, 1993. **L. 93:** Entire section amended, p. 1432, § 110, effective July 1. **L. 2002:** Entire section amended, p. 1636, § 21, effective June 7. **L. 2005:** Entire section amended, p. 1420, § 44, effective June 6; entire section amended, p. 1456, § 44, effective June 6. **L. 2007:** Entire section repealed, p. 1795, § 57, effective June 1.

1-9-207. Challenges of ballots cast by mail.

(1) The ballot of any elector that has been cast by mail may be challenged using a challenge form signed by the challenger under penalty of perjury setting forth the name of the person challenged and the basis for the challenge. Challenged ballots, except those rejected for forgery of a deceased person's signature on a mail ballot affidavit or submission of multiple ballots, must be counted. The election judges shall forthwith deliver all challenges, together with the affidavits of the persons challenged, to the county clerk and recorder or designated election official, as applicable.

(2) A mail ballot may not be challenged under this section solely on the basis of the signature that appears on the mail ballot. Signatures on mail ballots must be reviewed in accordance with section 1-7.5-107.3.

Source: L. 94: Entire section added, p. 1169, § 46, effective July 1. **L. 2002:** Entire section amended, p. 1636, § 22, effective June 7. **L. 2005:** Entire section amended, p. 1421, § 45, effective June 6; entire section amended, p. 1456, § 45, effective June 6. **L. 2007:** Entire section

amended, p. 1795, § 58, effective June 1. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1651, § 45, effective June 21.

1-9-208. Challenges of provisional ballots.

The ballot of any provisional voter may be challenged using a challenge form signed by the challenger under penalty of perjury setting forth the name of the person challenged and the basis for the challenge. Challenged provisional ballots, except those rejected for submission of multiple ballots, must be counted if the other requirements for counting provisional ballots are satisfied. The election judges shall deliver all challenges, together with the affidavits of the persons challenged, to the county clerk and recorder or the designated election official.

Source: L. 2002: Entire section added, p. 1636, § 23, effective June 7. **L. 2005:** Entire section amended, p. 1421, § 46, effective June 6; entire section amended, p. 1456, § 46, effective June 6. **L. 2007:** Entire section amended, p. 1796, § 59, effective June 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 747, § 115, effective May 10. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1652, § 46, effective June 21.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-9-209. Challenges delivered to district attorney.

The county clerk and recorder or designated election official shall forthwith deliver a challenge that is not withdrawn, along with the affidavit of the elector on the mail-in, provisional ballot, or mail ballot return envelope, to the district attorney for investigation and action. When practicable, the district attorney shall complete the investigation within ten days after receiving the challenge.

Source: L. 2005: Entire section added, p. 1421, § 47, effective June 6; entire section added, p. 1457, § 47, effective June 6. **L. 2007:** Entire section amended, p. 1796, § 60, effective June 1.

1-9-210. Copy of challenge delivered to elector.

When a challenge is made to a person who cast a mail ballot or provisional ballot and the person was not present at the time of the challenge, the county clerk and recorder or designated election official shall notify and mail a copy of the challenge to the person challenged in accordance with the rules of the secretary of state.

Source: L. 2005: Entire section added, p. 1422, § 47, effective June 6; entire section added, p. 1457, § 47, effective June 6. **L. 2007:** Entire section amended, p. 1796, § 61, effective June 1. **L. 2014:** Entire section amended, (HB 14-1164), ch. 2, p. 74, § 42, effective February 18.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

PART 3

PROVISIONAL BALLOTS

1-9-301 to 1-9-306. (Repealed)

Source: L. 2005: Entire part repealed, p. 1425, § 56, effective June 6; entire part repealed, p. 1461, § 56, effective June 6.

Editor's note: This part 3 was added in 2002. For amendments to this part 3 prior to its repeal in 2005, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

ARTICLE 10

Survey of Returns

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PART 3
RECOUNTS

1-10-301 to 1-10-309. (Repealed)

PART 1

SURVEY OF RETURNS - PARTISAN ELECTIONS

1-10-101. Canvass board for partisan elections - appointment, fees, oaths.

(1) (a) At least fifteen days before any primary, general, congressional vacancy, or special legislative election, the county chairpersons of each of the two major political parties in each county shall certify to the county clerk and recorder, in the manner prescribed by such clerk and recorder, the appointment of one or more registered electors to serve as a member of the county canvass board. The appointees, together with the county clerk and recorder, constitute the county canvass board. Each minor political party whose candidate is on the ballot and each unaffiliated candidate whose name is on the ballot in such election may designate, in the manner prescribed by such clerk and recorder, one watcher to observe the work of the county canvass board.

(b) If for any reason an appointee to the county canvass board refuses, fails, or is unable to serve, the appointee shall notify the county clerk and recorder. The county clerk and recorder, by

the speediest and most convenient method, shall notify the county chairperson of the political party to which the appointee belongs. The county chairperson shall forthwith appoint another person to the county canvass board. If the political party has no county chairperson or vice-chairperson or if a vacancy in the appointment occurs on the date of the meeting of the county canvass board so that there can be no specific compliance with the provisions of this section, the county clerk and recorder shall make the appointment or shall fill the vacancy as nearly in compliance with the intention of this section as possible.

(2) Each canvass board appointee shall receive a minimum fee of fifteen dollars for each day of service. The fee shall be set by the county clerk and recorder and shall be paid by the county for which the service is performed.

(3) Prior to assuming their duties, the members of the canvass board shall swear or affirm the following: "I, ..., do solemnly swear (or affirm) that I am a registered elector in the county of .....; that I am a registered member of the ..... party as shown in the statewide voter registration system; and that I will faithfully perform the duties required of a member of the county canvass board."

(4) Any individual serving on a canvass board pursuant to this article is immune from liability in any proceeding that is based on an act or omission of the individual if:

(a) He or she was acting in good faith and within the scope of his or her official functions or duties as specified in this article; and

(b) The violation was not caused by willful or intentional misconduct on the part of the individual.

Source: L. 92: Entire article R&RE, p. 775, § 13, effective January 1, 1993. **L. 99:** (1)(a) amended, p. 1390, § 11, effective June 4; entire section amended, p. 478, § 2, effective July 1. **L. 2002:** (1)(a) amended, p. 1638, § 25, effective June 7. **L. 2014:** (4) added, (SB 14-161), ch. 160, p. 566, § 25, effective May 9. **L. 2016:** (3) amended, (SB 16-142), ch. 173, p. 586, § 60, effective May 18. **L. 2021:** (3) amended, (SB 21-250), ch. 282, p. 1652, § 47, effective June 21.

Editor's note: (1) This section is similar to former § 1-10-101 as it existed prior to 1992.

(2) Amendments to subsection (1)(a) by House Bill 99-1160 and House Bill 99-1097 were harmonized.

ANNOTATION

Canvassing in charter convention elections for home rule cities. Pursuant to art. XX, Colo. Const., governing home rule cities and providing for the election of members of a charter convention, it is the duty of the clerk of said city and county, to canvass the returns of an election for members of such charter convention and to issue certificates of election to the members elected. McMurray v. Wright, 19 Colo. App. 17, 73 P. 257 (1903) (decided under former law).

1-10-101.5. Duties of the canvass board.

(1) The canvass board shall:

(a) Reconcile the ballots cast in an election to confirm that the number of ballots counted in that election does not exceed the number of ballots cast in that election;

(b) Reconcile the ballots cast in each precinct in the county to confirm that the number of ballots cast does not exceed the number of registered electors in the precinct; and

(c) Certify the abstract of votes cast in any election and transmit the certification to the secretary of state. A majority of canvass board members' signatures shall be sufficient to certify the abstract of votes cast in any election. When unable to certify the abstract of votes by the majority of the board for any reason, the canvass board shall transmit the noncertified abstract of votes to the secretary of state along with a written report detailing the reason for noncertification.

Source: L. 99: Entire section added, p. 478, § 3, effective July 1. **L. 2009:** Entire section amended, (HB 09-1336), ch. 261, p. 1199, § 9, effective August 5.

1-10-102. Official abstract of votes cast - certification.

(1) No later than the twenty-second day after any election coordinated by the county clerk and recorder, the canvass board shall complete its duties.

(2) (Deleted by amendment, L. 99, p. 479, § 4, effective July 1, 1999.)

(3) If a recount is held and the vote result changes, the county canvass board shall prepare and certify an amended official abstract of votes cast. If the vote result does not change after the recount, the county canvass board shall include a statement to that effect in the official abstract of votes cast.

Source: L. 92: Entire article R&RE, p. 776, § 13, effective January 1, 1993. **L. 94:** (1) and (3) amended, p. 1169, § 47, effective July 1. **L. 99:** Entire section amended, p. 479, § 4, effective

July 1. **L. 2002:** (1) amended, p. 1638, § 26, effective June 7. **L. 2005:** (1) amended, p. 1422, § 48, effective June 6; (1) amended, p. 1457, § 48, effective June 6. **L. 2018:** (1) amended, (SB 18-233), ch. 262, p. 1615, § 33, effective May 29.

Editor's note: This section is similar to former § 1-10-102 (1) as it existed prior to 1992.

1-10-103. Transmitting returns to the secretary of state - total of results.

(1) Immediately after the official abstract of votes cast has been certified and no later than the twenty-second day after any general or primary election or any coordinated election that includes a statewide ballot measure, the county clerk and recorder shall transmit to the secretary of state the portion of the abstract of votes cast that contains the statewide abstract of votes cast.

(2) No later than the twenty-seventh day after any primary or general election or any coordinated election that includes a statewide ballot measure, the secretary of state shall compile and total the returns received from all counties for all candidates, ballot issues, and ballot questions certified by the secretary of state, determine if a recount of any office, ballot issue, or ballot question is necessary, and order the appropriate recounts, if any.

(3) Following each general election, the county clerk and recorder shall transmit a list of the names of those candidates elected to county offices to the secretary of state.

Source: L. 92: Entire article R&RE, p. 777, § 13, effective January 1, 1993. **L. 94:** (1) amended, p. 1169, § 48, effective July 1. **L. 99:** Entire section amended, p. 479, § 5, effective July 1. **L. 2002:** Entire section amended, p. 1638, § 27, effective June 7. **L. 2005:** (1) and (2) amended, p. 1422, § 49, effective June 6; (1) and (2) amended, p. 1457, § 49, effective June 6. **L. 2011:** (2) amended, (SB 11-189), ch. 243, p. 1066, § 17, effective May 27. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1615, § 34, effective May 29.

Editor's note: This section is similar to former § 1-10-104 (1) as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The duty of canvassing is imposed on the state board of canvassers [now secretary of state] as an executive entity,

not individually. Orman v. People, 18 Colo. App. 302, 71 P. 430 (1903).

And is political and governmental in character. Orman v. People, 18 Colo. App. 302, 71 P. 430 (1903).

Courts have no jurisdiction to control the state board of canvassers' [now secretary of state's] canvassing returns by mandamus. Greenwood Cem. Land Co. v. Routt, 17 Colo. 156, 28 P. 1125 (1892); Orman v. People, 18 Colo. App. 302, 71 P. 430 (1903).

And even if the courts had jurisdiction the writ would lie only to command the board [now secretary] to act, and not to control his discretion by commanding him how to act. Orman v. People, 18 Colo. App. 302, 71 P. 430 (1903).

1-10-104. Imperfect returns - corrections.

(1) If, in the course of their duties, the canvass board or the secretary of state finds that the method of making or certifying returns from any precinct, county, or district does not conform to the requirements of law, the returns shall nevertheless be canvassed if they are sufficiently explicit in showing how many votes were cast for each candidate, ballot question, or ballot issue.

(2) If the canvass board or the secretary of state finds a clerical error or omission in the returns, the county clerk and recorder, after consultation with the election judges, shall make any correction required by the facts of the case. The election judges shall sign and submit to the canvass board any documentation required for any explanation or verification of the additions or corrections. The canvass board may adjourn from day to day for the purpose of obtaining the additions or corrections.

(3) If a majority of a canvass board in a county is unable to or does not certify the abstract of votes for any reason by the deadline for the county to certify the abstract of votes, the secretary of state shall review the noncertified abstract of votes and written report provided by the canvass board under section 1-10-101.5 (1)(c). If, after review, the secretary of state determines that the noncertified abstract of votes, along with the written report, other information and facts of the case provided by the county, or information revealed upon investigation by the secretary of state is clear and convincing in showing how many votes were cast for each candidate, ballot question, or ballot issue, the secretary of state shall certify the results for the county and proceed to certifying state results under section 1-10-105. After consultation with the board of county commissioners, the secretary of state may designate a registered elector of the state to carry out the duties required by this section.

Source: L. 92: Entire article R&RE, p. 777, § 13, effective January 1, 1993. **L. 99:** Entire section amended, p. 480, § 6, effective July 1. **L. 2022:** (3) added, (SB 22-153), ch. 322, p. 2282, § 14, effective June 2.

Editor's note: This section is similar to former § 1-10-105 as it existed prior to 1992.

Cross references: For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Certificate mistakes cannot be corrected by reference to tally lists. Mistakes in filling out the certificates of the judges of elections cannot be corrected by the canvassers or precinct election officials by reference to the tally lists, inasmuch as errors of this kind do not come within the provisions for correcting imperfect returns. People ex rel. Miller v. Tool, 35 Colo. 225, 86 P. 224, 86 P. 229, 86 P. 231 (1905).

But election judges may correct where clerical mistake in certificate. Where the number of votes in precinct, as shown by the tallies and figures in the pollbook do not correspond to number certified, but there is a clear case of a clerical mistake in the certificate, the judges of election, when they are notified of the error, have a right to correct, and should correct, such error. People ex rel. Harper v. Ingles, 106 Colo. 213, 103 P.2d 475 (1940).

1-10-104.5. Rules.

The secretary of state shall promulgate rules in accordance with article 4 of title 24, C.R.S., for the purpose of establishing equitable uniformity in the appointment and operation of canvass boards.

Source: L. 2009: Entire section added, (HB 09-1336), ch. 261, p. 1199, § 10, effective August 5.

1-10-105. Election results - certification by secretary of state.

(1) After receiving, compiling, and totaling the final abstracts of votes cast for all elections from the counties, and after all mandatory recounts have been completed, the secretary of state shall prepare and certify the official statewide election results for all candidates, ballot issues,

and ballot questions that the secretary of state certified for the ballot. The secretary of state shall prepare and certify the official statewide election results for any state-certified race that enters a requested recount after receiving, compiling, and totaling the amended abstract of votes cast from the counties involved in the recount. For each contest, the certified election results must show the total number of votes received, with subtotals for each county in which the candidate was on the ballot, and the ballot wording for each ballot issue and ballot question.

(2) In the event of tie votes, the secretary of state shall include the method of resolving votes and the final result in the statewide abstract of votes cast.

(3) (Deleted by amendment, L. 99, p. 480, § 7, effective July 1, 1999.)

(4) In the event that an accurate and verifiable determination of the count cannot be made and therefore the secretary of state is unable to certify the election of any candidate, the secretary shall issue a report indicating the nature of the irregularity rather than issue a certification.

(5) The secretary of state shall publish on a biennial basis an official abstract of votes cast for all statewide elections held in the year of the general election and include the odd-number year immediately preceding that general election. The abstract shall contain the following information:

(a) All information included in the statewide abstract of votes cast, as provided in subsection (1) of this section;

(b) The names of candidates elected to county offices and the offices for which they were elected, as furnished by the county clerk and recorders;

(c) The reconciled total number of active, registered voters in each county on election day;

(d) Based on the total number of registered voters, the percent of voter turnout in each county; and

(e) Any other information that the secretary of state determines would be interesting or useful to the electorate or other elected officials.

(6) Upon the request of a county clerk and recorder, the secretary of state shall furnish a copy of the complete official biennial statewide abstract of votes to the county clerk and recorder, at no charge, no later than June of the odd-numbered year immediately following the general election.

Source: L. 92: Entire article R&RE, p. 777, § 13, effective January 1, 1993. **L. 94:** (1) amended, p. 1169, § 49, effective July 1. **L. 99:** Entire section amended, p. 480, § 7, effective July 1. **L. 2009:** (5)(c) amended, (HB 09-1018), ch. 158, p. 685, § 7, effective August 5. **L. 2010:** (6) amended, (HB 10-1116), ch. 194, p. 839, § 25, effective May 5. **L. 2012:** (5)(d) amended,

(HB 12-1292), ch. 181, p. 688, § 39, effective May 17. **L. 2016:** (1) amended, (SB 16-142), ch. 173, p. 586, § 61, effective May 18. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1652, § 48, effective June 21.

Editor's note: This section is similar to former § 1-10-104 (2) as it existed prior to 1992.

ANNOTATION

Annotator's note. For a relevant case construing the provisions of this section, see the annotations under former § 1-10-104 in the 1980 replacement volume.

Certificate mistakes cannot be corrected by reference to tally lists. Mistakes in filling out the certificates of the judges of elections cannot be corrected by the canvassers or precinct election officials by reference to the tally lists, inasmuch as errors of this kind do not come within the provisions for correcting imperfect returns. People ex rel. Miller v. Tool, 35 Colo. 225, 86 P. 224, 86 P. 229, 86 P. 231, 117 Am. St. R. 198, 6 L.R.A. (n.s.) 822 (1905) (decided under former law).

But election judges may correct where clerical mistake in certificate. here the number of votes in precinct, as shown by the tallies and figures in the pollbook do not correspond to number certified, but there is a clear case of a clerical mistake in the certificate, the judges of election, when they are notified of the error, have a right to correct, and should correct, such error. People ex rel. Harper v. Ingles, 106 Colo. 213, 103 P.2d 475 (1940) (decided under former law).

1-10-106. Summary of election results - statewide elections - early voting.

(1) (a) Within sixty days after a statewide election, the designated election official shall prepare and make available to the public a statement of the total number of votes cast in the election for each candidate and for and against each ballot issue and ballot question on the ballot certified by the designated election official pursuant to section 1-5-203.

(b) and (c) Repealed.

(2) The designated election official may charge a fee for a copy of the statement prepared pursuant to this section in an amount not to exceed the actual cost of making the copy.

(3) The designated election official shall retain all materials used to compile the statement required by this section for a period of at least twenty-five months.

Source: L. 2005: Entire section added, p. 1422, § 50, effective June 6; entire section added, p. 1457, § 50, effective June 6. **L. 2006:** (1)(c) amended, p. 2035, § 22, effective June 6. **L. 2007:** (1)(c) amended, p. 1796, § 62, effective June 1. **L. 2013:** (1)(b) and (1)(c) repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, subsections (1)(b) and (1)(c) were repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

PART 2

SURVEY OF RETURNS - NONPARTISAN ELECTIONS

1-10-201. Canvass of nonpartisan elections.

(1) Except as provided for special districts in subsection (1.5) of this section, at least fifteen days before any nonpartisan election that is not coordinated by the county clerk and recorder, the governing body or bodies that called the election shall appoint two registered electors of the political subdivision to serve as members of the canvass board. One of the two persons appointed may be a member of the governing body. The persons so appointed and the designated election official constitute the canvass board for the election. If the election is coordinated between two or more governing bodies, the canvass board shall be appointed in accordance with the intergovernmental agreement between the governing bodies.

(1.5) Unless otherwise directed by the board of directors of a special district, at least fifteen days before any regular special district election, the designated election official shall appoint at least one member of the board of such district and at least one eligible elector of the special district who is not a member of such board to assist the designated election official in the survey of returns. The persons so appointed and the designated election official constitute the board of canvassers for the election.

(2) To the fullest extent possible, no member of the canvass board nor the member's spouse or civil union partner shall have a direct interest in the election.

(3) If for any reason any person appointed as a member of the canvass board refuses, fails, or is unable to serve, that appointed person shall notify the designated election official, who shall appoint another person with the same qualifications, if available, to the canvass board.

(4) Each canvass board member who is not a member of the governing body shall receive a minimum fee of fifteen dollars for each day of service. The fee shall be set by the designated election official and shall be paid by the political subdivision for which the service is performed.

(5) Prior to assuming their duties, the members of the canvass board shall swear or affirm the following: "I, _____, do solemnly swear (or affirm) that I am a registered elector in the county of _____ and of the state of Colorado and that I will faithfully perform the duties required of a member of the canvass board."

Source: L. 92: Entire article R&RE, p. 778, § 13, effective January 1, 1993. **L. 94:** Entire section amended, p. 1170, § 50, effective July 1. **L. 99:** Entire section amended, p. 481, § 8, effective July 1; (1) amended and (1.5) added, p. 451, § 8, effective August 4. **L. 2013:** (2) amended, (HB 13-1303), ch. 185, p. 747, § 116, effective May 10.

Editor's note: Amendments to subsection (1) by House Bill 99-1268 and House Bill 99-1160 were harmonized.

Cross references: In 2013, subsection (2) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-10-202. Canvass of votes in coordinated elections.

For any election coordinated by the county clerk and recorder, the canvass board shall be appointed in accordance with the intergovernmental agreement between the governing bodies holding the election.

Source: L. 92: Entire article R&RE, p. 778, § 13, effective January 1, 1993. **L. 93:** Entire section amended, p. 1433, § 111, effective July 1. **L. 99:** Entire section amended, p. 482, § 9, effective July 1.

1-10-203. Official abstract of votes cast - nonpartisan elections.

(1) No later than twenty-two days after an election, the canvass board shall certify to the designated election official the official abstract of votes cast for all candidates, ballot issues, and ballot questions in that election.

(2) If the election is canceled pursuant to section 1-5-208, the designated election official shall note the cancellation and the declared winner on the certified statement of results and the abstract of votes cast, if one is prepared.

(3) If a recount is held and the result of the election changes after the recount, the canvass board shall prepare and certify an amended official abstract of votes cast. If the result of an election subject to a recount does not change after such recount, the canvass board shall include a statement of that fact in the abstract of votes cast.

Source: L. 92: Entire article R&RE, p. 778, § 13, effective January 1, 1993. **L. 93:** (1) amended, p. 1433, § 112, effective July 1. **L. 94:** Entire section amended, p. 1170, § 51, effective July 1. **L. 95:** Entire section amended, p. 843, § 67, effective July 1. **L. 99:** Entire section amended, p. 482, § 10, effective July 1. **L. 2010:** (1) amended, (HB 10-1116), ch. 194, p. 839, § 26, effective May 5. **L. 2018:** (1) amended, (SB 18-233), ch. 262, p. 1615, § 35, effective May 29.

1-10-204. Imperfect returns.

If the canvass board finds that the method of making or certifying returns from any precinct does not conform to the requirements of law, the returns of the votes cast in that precinct shall nevertheless be canvassed if the returns are sufficiently explicit to enable the canvass board to determine how many votes were cast for each candidate, ballot question, or ballot issue.

Source: L. 92: Entire article R&RE, p. 779, § 13, effective January 1, 1993. **L. 94:** Entire section amended, p. 1171, § 52, effective July 1. **L. 99:** Entire section amended, p. 483, § 11, effective July 1.

1-10-205. Corrections.

If the canvass board finds a clerical error or omission in the returns, the board shall consult with the election judges from whom the returns were received to resolve the discrepancies. The election judges shall submit to the canvass board any documentation for verification of the additions and corrections, and the canvass board shall make any additions and corrections required by the facts of the case. The canvass board may adjourn from day to day for the purpose of obtaining the corrections and additions.

Source: L. 92: Entire article R&RE, p. 779, § 13, effective January 1, 1993. **L. 99:** Entire section amended, p. 483, § 12, effective July 1.

PART 3

RECOUNTS

1-10-301 to 1-10-309. (Repealed)

Source: L. 99: Entire part repealed, p. 492, § 24, effective July 1.

Editor's note: (1) This part 3 originated as part of the repeal and reenactment of this article in 1992. For amendments to this part 3 prior to its repeal in 1999, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume and the editor's note following the article heading for this article.

(2) Sections 1-10-301 to 1-10-307 were relocated to article 10.5 of this title 1. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

ARTICLE 10.5

Recounts

1-10.5-101. Recounts required - expenses.

1-10.5-102. Recounts for congressional, state, and district offices, state ballot questions, and state ballot issues.

1-10.5-103. Recount for other offices, ballot issues, and ballot questions in an election coordinated by county clerk and recorder.

1-10.5-104. Recount for nonpartisan elections not coordinated by county clerk and recorder. (Repealed)

1-10.5-105. Notice of recount.

1-10.5-106. Request for recount by interested party - definition.

1-10.5-107. Conducting a recount.

1-10.5-108. Method of recount. (Repealed)

1-10.5-109. Challenge of recount - definition.

1-10.5-110. Procedures for recount on direct recording electronic voting equipment. (Repealed)

1-10.5-101. Recounts required - expenses.

(1) (a) (Deleted by amendment, L. 2001, p. 1265, § 1, effective June 5, 2001.)

(b) A recount of any election contest shall be held if the difference between the highest number of votes cast in that election contest and the next highest number of votes cast in that election contest is less than or equal to one-half of one percent of the highest vote cast in that election contest. If there is more than one person to be elected in an election contest, a recount shall be held if the difference between the votes cast for the candidate who won the election with the least votes and the candidate who lost the election with the most votes is less than or equal to one-half of one percent of the votes cast for the candidate who won the election with the least votes. A recount shall occur only after the canvass board certifies the original vote count.

(2) Except as provided in section 1-10.5-106, any expenses incurred in conducting a recount in any political subdivision shall be paid by the entity that certified the candidate, ballot question, or ballot issue for the ballot. Members of the canvass board who assist in any recount shall receive the same fees authorized for counting judges in section 1-6-115.

Source: L. 99: Entire article added with relocations, p. 483, § 13, effective July 1. **L. 2001:** (1) amended, p. 1265, § 1, effective June 5. **L. 2006:** (1)(b) amended, p. 277, § 1, effective August 7.

1-10.5-102. Recounts for congressional, state, and district offices, state ballot questions, and state ballot issues.

(1) If the secretary of state determines that a recount is required for the office of United States senator, representative in congress, any state office or district office of state concern, any state ballot question, or any state ballot issue certified for the ballot by the secretary of state, the secretary of state shall order a complete recount of all the votes cast for that office, state ballot question, or state ballot issue no later than the twenty-fourth day after the election.

(2) The secretary of state shall notify the county clerk and recorder of each county involved of a public recount to be conducted in the county. The recount must be completed no later than the thirty-first day after any election. The secretary of state shall promulgate and provide each county clerk and recorder with the necessary rules to conduct the recount in a fair, impartial, and uniform manner, including provisions for watchers during the recount. The rules adopted by the secretary of state shall require the county clerk and recorder to allow any candidate who is subject to a recount to select one watcher for the recount in addition to any watchers otherwise selected for the recount. Any rule concerning the conduct of a recount must take into account the type of voting system and equipment used by the county in which the recount is to be conducted.

(3) (a) Prior to any recount, the canvass board shall choose at random and test at least one ballot scanner that will be used in the candidate race, ballot issue, or ballot question that is the subject of the recount. The purpose of the test is to ensure that the voting system accurately tabulates votes in the recounted contest. To conduct the test, the county must prepare and tabulate the following groups of ballots:

(I) A group of ballots that includes every ballot style and, where applicable, precinct style containing the recounted contest. The group of ballots must consist of enough ballots to mark every vote position and every possible combination of vote positions for the recounted contest and include overvotes, undervotes, and blank votes in the recounted contest. The canvass board may choose to use the county's group of ballots from the public logic and accuracy test conducted pursuant to section 1-7-509 (2) for the same election to satisfy this requirement.

(II) For a requested recount, a group of ballots consisting of ten ballots with the recount contest marked by the individual requesting the recount, any other candidate in the contest, or the person or organization that could have requested the recount; and

(III) For a mandatory recount, each canvass board member, other than the clerk, shall separately mark their own group of ten test ballots with the recount contest.

(b) A bipartisan team of election judges or staff must hand tally the recounted contest on the test ballots and verify that the hand tally matches the voting system's tabulation for each scanner that is being tested. If the canvass board uses the county's group of ballots from the public logic and accuracy test conducted under section 1-7-509 (2), then the canvass board may use the known results or previous hand tally of that group of ballots in lieu of hand tallying the recounted contest for those ballots. If the results of the comparison of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of this section and this subsection (3)(b) are identical, or if the canvass board concludes that any discrepancies are attributable to human error, then the recount must be conducted in the same manner as the original ballot count. If the results of the comparison of the machine count and the manual count in accordance with the requirements of subsection (3)(a) of this section and this subsection (3)(b) are not identical, or if any discrepancy is not able to be accounted for by voter error, a presumption is created that a hand count of the voter-verified paper records will be used for the recount, unless evidence exists that the integrity of the voter-verified paper records has been irrevocably compromised. The secretary of state shall decide which method of recount is used in each case, based on the secretary's determination of which method will ensure the most accurate count, subject to judicial review for abuse of discretion. Nothing in this subsection (3) limits any person from pursuing any applicable legal remedy otherwise provided by law.

(c) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to administer and enforce any requirement of this section, including any rules necessary to provide guidance to the counties in conducting the test of voting devices for the recount required by paragraph (a) of this subsection (3). The rules shall account for:

(I) The number of ballots cast in the candidate race, ballot issue, or ballot question that is the subject of the recount;

(II) An audit of each type of voting device utilized by the county in the candidate race, ballot issue, or ballot question that is the subject of the recount; and

(III) The confidentiality of the ballots cast by the electors in the candidate race, ballot issue, or ballot question that is the subject of the recount.

Source: L. 99: Entire article added with relocations, p. 484, § 13, effective July 1. **L. 2001:** (2) amended, p. 300, § 1, effective August 8. **L. 2002:** (1) and (2) amended, p. 1638, § 28, effective June 7. **L. 2005:** (2) and (3) amended, p. 1423, § 51, effective June 6; (2) and (3) amended, p. 1458, § 51, effective June 6. **L. 2012:** (1) amended, (HB 12-1292), ch. 181, p. 688, § 40, effective May 17. **L. 2018:** (2) amended, (SB 18-233), ch. 262, p. 1615, § 36, effective May 29. **L. 2021:** (3)(a) and (3)(b) amended, (SB 21-250), ch. 282, p. 1653, § 49, effective June 21. **L. 2023:** (1), (2), (3)(a), and (3)(b) amended, (SB 23-276), ch. 399, p. 2389, § 38, effective June 6. **L. 2025:** (2) amended, (HB 25-1155), ch. 35, p. 177, § 2, effective August 6; (3)(a)(III) amended, (SB 25-001), ch. 178, p. 746, § 9, effective August 6.

Editor's note: This section is similar to former § 1-10-301 as it existed prior to 1999.

1-10.5-103. Recount for other offices, ballot issues, and ballot questions in an election coordinated by county clerk and recorder.

In any election coordinated by the county clerk and recorder, if it appears, as evidenced by the official abstract of votes cast, that a recount is required for any office, ballot question, or ballot issue not included in section 1-10.5-102, the county clerk and recorder shall order a recount of the votes cast for the office, ballot question, or ballot issue to be conducted in accordance with section 1-10.5-102. Any recount of the votes must be completed no later than the thirty-first day after the election. The county clerk and recorder shall ensure that any candidate subject to a recount pursuant to this section may select one watcher for the recount in addition to any watchers otherwise selected for the recount. A political subdivision that referred a ballot issue or ballot question to the electors may waive the automatic recount provisions of this section if the ballot issue or ballot question fails by giving written notice to the county clerk and recorder within twenty-three days after any election.

Source: L. 99: Entire article added with relocations, p. 485, § 13, effective July 1. **L. 2001:** Entire section amended, p. 300, § 2, effective August 8. **L. 2002:** Entire section amended, p.

1639, § 29, effective June 7. **L. 2005:** Entire section amended, p. 1424, § 52, effective June 6; entire section amended, p. 1459, § 52, effective June 6. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1616, § 37, effective May 29. **L. 2023:** Entire section amended, (SB 23-276), ch. 399, p. 2391, § 39, effective June 6. **L. 2025:** Entire section amended, (HB 25-1155), ch. 35, p. 178, § 3, effective August 6.

Editor's note: This section is similar to former § 1-10-302 as it existed prior to 1999.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Determination by lot does not prevent election contest. The determination by lot by the canvassing board of which candidate shall have the certificate of election where two candidates having the highest number of votes have an equal number is not such settlement of the matter as will prevent the defeated party from contesting the election on the ground that legal votes for him were not counted or that illegal votes were counted for his opponent. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

1-10.5-104. Recount for nonpartisan elections not coordinated by county clerk and recorder. (Repealed)

Source: L. 99: Entire article added with relocations, p. 485, § 13, effective July 1. **L. 2001:** Entire section amended, p. 301, § 3, effective August 8. **L. 2002:** Entire section amended, p. 1639, § 30, effective June 7. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3256, § 41, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former § 1-10-303 as it existed prior to 1999.

1-10.5-105. Notice of recount.

Notice prior to the recount must be given to all candidates and, in the case of a ballot issue or ballot question, any petition representative identified pursuant to section 1-40-113, any governing body, or any agent of an issue committee, if such committee is required to report contributions to the secretary of state pursuant to the "Fair Campaign Practices Act", article 45 of

this title, that are affected by the result of the election. Notice must be given by email, telephone, facsimile transmission, or personal service.

Source: L. 99: Entire article added with relocations, p. 485, § 13, effective July 1. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1653, § 50, effective June 21.

1-10.5-106. Request for recount by interested party - definition.

(1) As used in this section, "interested party" means the candidate who lost the election, the political party or political organization of such candidate, any petition representative identified pursuant to section 1-40-113 for a ballot issue or ballot question that did not pass at the election, the governing body that referred a ballot question or ballot issue to the electorate if such ballot question or ballot issue did not pass at the election, or the agent of an issue committee that is required to report contributions pursuant to the "Fair Campaign Practices Act", article 45 of this title, that either supported a ballot question or ballot issue that did not pass at the election or opposed a ballot question or ballot issue that passed at the election.

(2) Whenever a recount is not required an interested party may submit a notarized written request for a recount to be conducted in accordance with section 1-10.5-102 at the expense of the interested party making the request. This request must be filed with the secretary of state, the county clerk and recorder, the designated election official, or other governing body that originally certified the candidate, ballot question, or ballot issue for the ballot no sooner than ten days or later than twenty-two days after any primary, general, coordinated, or recall election. A request under this section by an interested party may be made only once. The election official shall notify the political subdivision within which the election was held no later than the day following receipt of the request. Before conducting the recount, the election official who will conduct the recount shall determine the cost of the recount within four days of receiving the request to recount, but no later than twenty-four days following the election, and shall notify the interested party that requested the recount of the cost. If the request is filed with the secretary of state, the secretary of state shall determine the cost of the recount by adding the individual amounts determined by the political subdivisions conducting the recount. The interested party that requested the recount shall pay the cost of the recount by certified funds to the election official with whom the request for a recount was filed no later than twenty-seven days after the election. The funds must be placed in escrow for payment of all direct and indirect expenses, including staff time and related expenses, incurred by the county or secretary of state in the recount. If after the recount the result of the election is reversed in favor of the interested party that requested the recount or if the amended election count is such that a recount otherwise would have been required, the payment for expenses shall be refunded to the interested party that requested the recount. Any escrow amounts not refunded to the interested party that requested

the recount must be paid to the election officials who conducted the recount. Any recount of votes pursuant to this section must be completed no later than the thirty-fifth day after any primary, general, coordinated, or recall election.

Source: L. 99: Entire article added with relocations, p. 486, § 13, effective July 1. **L. 2002:** (2) amended, p. 1639, § 31, effective June 7. **L. 2005:** (2) amended, p. 1424, § 53, effective June 6; (2) amended, p. 1460, § 53, effective June 6. **L. 2011:** (2) amended, (SB 11-189), ch. 243, p. 1066, § 18, effective May 27. **L. 2018:** (2) amended, (SB 18-233), ch. 262, p. 1616, § 38, effective May 29. **L. 2023:** (2) amended, (SB 23-276), ch. 399, p. 2391, § 40, effective June 6.

Editor's note: This section is similar to former §§ 1-10-1304 and 1-10-304.5 as they existed prior to 1999.

1-10.5-107. Conducting a recount.

(1) Any county clerk and recorder required to conduct a recount shall arrange for the canvass board who officiated in certifying the official abstract of votes cast to observe the conduct of the recount. If any member of the canvass board cannot be present for the recount, another person shall be appointed in the manner provided by law for appointment of the members of the original board.

(2) A county clerk and recorder conducting a recount shall employ assistants, clerks, and election judges as necessary for the conduct of the recount. The clerk and recorder shall employ a bipartisan team of election judges to determine issues of voter intent in accordance with rules adopted by the secretary of state. If the bipartisan team of election judges cannot make a unanimous decision regarding an issue of voter intent, the canvass board shall, by majority vote, make such determination.

(3) The canvass board may correct the abstract of votes cast, should a discrepancy in the vote tabulation be discovered during the recount.

(4) At the conclusion of the recount, the county clerk and recorder shall make the returns of all partisan, nonpartisan, ballot issue, and ballot question elections to the canvass board and provide a copy to the persons or groups requesting the recount or notified of the recount pursuant to sections 1-10.5-105 and 1-10.5-106. The canvass board shall meet and issue an amended abstract of votes cast for the office, ballot issue, or ballot question that is the subject of the recount and deliver it to the designated election official.

(5) The designated election official shall notify the governing body of the results of the recount.

Source: L. 99: Entire article added with relocations, p. 487, § 13, effective July 1. **L. 2025:** (1), (2), (3), and (4) amended, (SB 25-001), ch. 178, p. 747, § 10, effective August 6.

Editor's note: This section is similar to former § 1-10-305 as it existed prior to 1999.

1-10.5-108. Method of recount. (Repealed)

Source: L. 99: Entire article added with relocations, p. 487, § 13, effective July 1. **L. 2001:** Entire section amended, p. 301, § 4, effective August 8. **L. 2005:** Entire section repealed, p. 1425, § 56, effective June 6; entire section repealed, p. 1461, § 56, effective June 6.

Editor's note: This section was similar to former § 1-10-306 as it existed prior to 1999.

1-10.5-109. Challenge of recount - definition.

(1) (a) As used in this section, "interested party" means:

(I) A candidate, political party, or political organization of a candidate;

(II) A petition representative identified pursuant to section 1-40-113 for a ballot issue or ballot question;

(III) The governing body that referred a ballot question or ballot issue to the electorate; or

(IV) The agent of an issue committee that is required to report contributions pursuant to the "Fair Campaign Practices Act", article 45 of this title 1, that either supported or opposed a ballot question or ballot issue of a race, question, or issue that is being recounted.

(a.5) Any interested party to a required or requested recount of a county, state, national, or district office of state concern, that has reasonable grounds to believe that the recount is not being conducted in a fair, impartial, and uniform manner may apply to the district court of the city and county of Denver for an order requiring the county clerk and recorder to stop the recount and to give the secretary of state access to all pertinent election records used in conducting the recount and requiring the secretary of state to conduct the recount. The secretary of state may employ assistants and clerks as necessary to conduct the recount. The county clerk and recorder shall be an official observer during any recount conducted by the secretary of state.

(b) Any interested party to a required or requested recount of any other local office, ballot question, or ballot issue that has reasonable grounds to believe that the designated election official is not conducting the recount in a fair, impartial, and uniform manner may apply to the district court for the political subdivision for an order requiring the designated election official to stop the recount and to give the appropriate official who will take over conducting the recount access to all pertinent election records and requiring the appropriate official to conduct the recount. If the county clerk and recorder is not the designated election official, then the county clerk and recorder is the appropriate official to conduct the recount. If the county clerk and recorder is the designated election official, then the secretary of state is the appropriate official to conduct the recount. The secretary of state or county clerk may employ assistants and clerks as necessary to conduct the recount. The designated election official shall be an official observer during any recount conducted pursuant to this subsection (1).

(2) All expenses incurred by the secretary of state in conducting a recount pursuant to subsection (1) of this section shall be paid from the state general fund. Expenses incurred prior to a court order requiring the secretary of state to conduct the recount shall be paid by the county or political subdivision conducting the recount.

Source: L. 99: Entire article added with relocations, p. 488, § 13, effective July 1. **L. 2024:** (1) amended, (SB 24-210), ch. 468, p. 3257, § 42, effective June 6.

Editor's note: This section is similar to former § 1-10-307 as it existed prior to 1999.

1-10.5-110. Procedures for recount on direct recording electronic voting equipment. (Repealed)

Source: L. 2000: Entire section added, p. 1727, § 2, effective July 1. **L. 2004:** (1)(b), (3), and (4) amended, p. 1360, § 27, effective May 28. **L. 2005:** Entire section repealed, p. 1425, § 56, effective June 6; entire section repealed, p. 1461, § 56, effective June 6.

ARTICLE 11

Certificates of Election and Election Contests

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PART 1

TIE VOTES AND CERTIFICATES OF ELECTION

1-11-101. Tie votes at partisan elections.

(1) If at any general or congressional vacancy election, after all recounts have been completed, any two or more pairs of joint candidates for the offices of governor and lieutenant governor or if two or more candidates for the offices of secretary of state, state treasurer, or attorney general tie for the highest number of votes for the same office, one of the pairs or one of the individual candidates shall be chosen by the two houses of the general assembly on a joint ballot.

(2) If at any general or congressional vacancy election, after all recounts have been completed, any two or more persons tie for the highest number of votes for presidential electors, for United States senator, for representative in congress, for regent of the university of Colorado, for member of the state board of education, for state senator or state representative, or for district attorney, the secretary of state shall proceed to determine by lot which of the candidates shall be declared elected. Reasonable notice shall be given to the candidates of the time when the election will be determined.

(3) If at any primary election, after all recounts have been completed, any two or more candidates for an office other than a county office of the same political party tie for the highest number of votes for the same office, the tie shall be resolved in a manner agreed upon by the tying candidates. In case the candidates fail to agree on the method of resolution within five days after the canvass is complete, the tie shall be resolved by lot to be cast as the secretary of state may determine.

(4) If at any primary election involving a county office, after all recounts have been completed, two or more candidates of the same political party tie for the highest number of votes for the same office, the canvass board shall determine by lot the person who shall be elected. The canvass board shall provide the candidates affected by the tie vote reasonable notice of the time when the election will be determined.

Source: L. 92: Entire article R&RE, p. 783, § 14, effective January 1, 1993. **L. 99:** Entire section amended, p. 488, § 14, effective July 1.

Editor's note: Subsection (2) is similar to former § 1-10-104 (3)(a), and subsection (3) is similar to former § 1-10-104 (3)(b), as they existed prior to 1992.

Cross references: For appointment of the original county board of canvassers, see § 1-10-101 (1)(a).

1-11-102. Tie votes in nonpartisan elections.

If any two or more candidates tie for the highest number of votes for the same office and if there are not enough offices remaining for all the candidates, the board of canvassers shall determine by lot the person who shall be elected. Reasonable notice shall be given to the candidates who are involved of the time when the election will be determined.

Source: L. 92: Entire article R&RE, p. 784, § 14, effective January 1, 1993.

ANNOTATION

Determination by lot does not prevent election contest. The determination by lot by the canvassing board of which candidate shall have the certificate of election where two candidates having the highest number of votes have an equal number is not such

settlement of the matter as will prevent the defeated party from contesting the election on the ground that legal votes for him were not counted or that illegal votes were counted for his opponent. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900) (decided under former law).

1-11-102.5. Ballot issue and ballot question - majority required.

If any ballot issue or ballot question is approved by less than a majority of the votes cast, the issue or question shall be considered to have failed.

Source: L. 95: Entire section added, p. 845, § 71, effective July 1.

1-11-103. Certificates of election for nonpartisan, ballot issue, or ballot question elections.

(1) Except in the case of offices for which a recount is required, immediately after the final abstract of votes cast for each office has been prepared and certified, the designated election official shall notify the candidates of their election to office. After any required bond and oath is filed, the designated election official shall make a formal certificate of election for each person who was elected and shall deliver the formal certificate to that person.

(2) Except in the case of ballot issues or ballot questions for which a recount is required, immediately after the abstract of votes cast for each ballot issue or ballot question has been prepared and certified, the designated election official shall notify the governing body of the political subdivision conducting the election and the petition representatives of a ballot issue or ballot question of the election result and shall make a certificate of the votes cast for and against each ballot issue and for and against each ballot question available for public inspection in the office of the designated election official for no less than ten days following the completion of the abstract of votes cast by the canvass board.

(3) The results of a special district election shall be certified to the division of local government within thirty days after the election as provided in section 32-1-104 (1), C.R.S. If an election is canceled, the notice and a copy of the resolution of cancellation shall be filed with the division of local government.

Source: L. 92: Entire article R&RE, p. 784, § 14, effective January 1, 1993. **L. 93:** Entire section amended, p. 1435, § 118, effective July 1. **L. 94:** Entire section amended, p. 1174, § 59, effective July 1. **L. 99:** (1) and (2) amended, p. 489, § 15, effective July 1; (3) amended, p. 452, § 10, effective August 4.

1-11-104. Certificates of election for county officers.

Except in the case of offices for which a recount is required, immediately after the final abstract of votes cast for county officers has been prepared and certified, the county clerk and recorder shall make a certificate of election, or a certificate of nomination in the case of a primary election, for each person declared to be elected or nominated to each office and shall deliver the certificates to that person.

Source: L. 92: Entire article R&RE, p. 784, § 14, effective January 1, 1993. **L. 99:** Entire section amended, p. 489, § 16, effective July 1. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3257, § 43, effective June 6.

Editor's note: This section is similar to former § 1-10-201 as it existed prior to 1992.

1-11-105. Certificates of election for national, state, and district officers.

Immediately after the results of an election have been certified pursuant to section 1-10-105 (1), the secretary of state shall make and transmit a certificate of election, certified under the secretary of state's seal of office, to each of the persons declared to be elected to national, state, and district offices of state concern and shall record in a book to be kept for that purpose each such certification. If the secretary of state is unable to certify the candidate elected to a state or district office of state concern, no such certification of election may be transmitted by the secretary of state until the candidate elected has been determined.

Source: L. 92: Entire article R&RE, p. 784, § 14, effective January 1, 1993. **L. 94:** Entire section amended, p. 1175, § 60, effective July 1. **L. 99:** Entire section amended, p. 490, § 17, effective July 1. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 587, § 62, effective May 18.

Editor's note: This section is similar to former § 1-10-202 as it existed prior to 1992.

1-11-106. Delivery of certified list of results.

Upon the organization of the house of representatives, the secretary of state shall deliver to the speaker of the house a certified list of candidates elected to each state office and of each member elected to the general assembly showing the member's district. If the secretary of state is unable to certify the candidate elected to state office or the member elected to the general assembly from a particular district, the secretary of state shall also deliver a list of the state offices or districts for which no certification may be made. The speaker, upon receipt of the certified list and, if delivered, the list of offices and districts for which no certification may be made and before proceeding to other business, shall open and announce the results in the presence of a majority of the members of both houses of the general assembly, who shall assemble for that purpose in the chamber of the house of representatives. The person having the highest number of votes for any of the offices shall be declared duly elected by the presiding officer of the joint assembly.

Source: L. 92: Entire article R&RE, p. 784, § 14, effective January 1, 1993. **L. 99:** Entire section amended, p. 490, § 18, effective July 1. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3258, § 44, effective June 6.

Editor's note: This section is similar to former § 1-10-103 as it existed prior to 1992.

1-11-107. Lists of presidential electors.

The secretary of state shall prepare a certificate of election for each presidential elector who is elected at any general election. The governor shall sign and affix the seal of the state to the certificates. The secretary of state shall deliver six copies of the certificate to each elector on the date of or before the meeting of the electors to cast ballots as required in section 1-4-304.

Source: L. 92: Entire article R&RE, p. 785, § 14, effective January 1, 1993. **L. 2023:** Entire section amended, (SB 23-276), ch. 399, p. 2392, § 41, effective June 6.

Editor's note: This section is similar to former § 1-10-204 as it existed prior to 1992.

1-11-108. Official abstract. (Repealed)

Source: L. 92: Entire article R&RE, p. 785, § 14, effective January 1, 1993. **L. 94:** (1)(a) amended, p. 1175, § 61, effective July 1. **L. 99:** Entire section repealed, p. 492, § 24, effective July 1.

PART 2

ELECTION CONTESTS

1-11-201. Causes of contest.

(1) The election of any candidate to any office may be contested on any of the following grounds:

(a) That the candidate elected is not eligible to hold the office for which elected;

(b) That illegal votes were received or legal votes rejected at the polls in sufficient numbers to change the result of the election;

(c) That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of the election;

(d) That an election judge, canvass board, or member of a canvass board has committed malconduct, fraud, or corruption that changed the result of the election; or

(e) That, for any reason, another candidate was legally elected to the office.

(2) For the purpose of this part 2, if the election or nomination of either the governor or lieutenant governor is found to be invalid for any reason, the finding shall not in any way be construed to invalidate the election or nomination of the other joint candidate.

(3) The result of any election to determine a ballot issue or ballot question may be contested on any of the following grounds:

(a) That illegal votes were received or legal votes were rejected at the polls in sufficient numbers to change the result of the election;

(b) That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of the election; or

(c) That an election judge, canvass board, or member of a canvass board has committed misconduct, fraud, or corruption that changed the result of the election.

(4) In addition to the grounds set forth in subsection (3) of this section, the result of any election to determine a ballot issue that includes approval of the creation of any debt or other financial obligation may be contested if the notice required by section 1-7-908 is not provided in

accordance with that section or contains any material misstatement of the information required to be set forth in the notice.

Source: L. 92: Entire article R&RE, p. 785, § 14, effective January 1, 1993. **L. 94:** (3) added, p. 1175, § 62, effective July 1. **L. 99:** (1)(c), (1)(d), (3)(b), and (3)(c) amended, p. 490, § 19, effective July 1. **L. 2003:** (4) added, p. 749, § 2, effective August 6.

Editor's note: This section is similar to former § 1-11-201 as it existed prior to 1992.

Cross references: For contests for county and nonpartisan officers, ballot issues, and ballot questions, see § 1-11-212; for contested elections, see C.R.C.P. 100.

ANNOTATION

I. General Consideration.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Pursuant to the constitutional mandate of Colo. Const., art. VII, § 12, the procedure to be followed in election contests was enacted. Cox v. Starkweather, 128 Colo. 89, 260 P.2d 587 (1953).

II. CAUSES OF CONTEST.

A. In General.

B. Causes.

A. In General.

In an election contest, the statement of contest must bring the case within one of the enumerated causes constituting grounds for contest. Lewis v. Boynton, 25 Colo. 486, 55 P. 732 (1898).

For, in an election contest, the contestor should be able to show some good reason for the contest. Todd v. Stewart, 14 Colo. 286, 23 P. 426 (1890); Smith v. Harris, 18 Colo. 274, 32 P. 616 (1893); Boger v. Smith, 77 Colo. 475, 238 P. 57 (1925).

And in the absence of some definite and specific assertion, a court will assume that there are none to be made. Todd v. Stewart, 14 Colo. 286, 23 P. 426 (1890); Smith v. Harris, 18 Colo. 274, 32 P. 616 (1893); Boger v. Smith, 77 Colo. 475, 238 P. 57 (1925).

Moreover, a statement of contest not vulnerable to demurrer (now dismissal for failure to state a claim) may be assailable on other grounds, e.g., that it is ambiguous, unintelligible, and uncertain. Collins v. Heath, 76 Colo. 600, 233 P. 838 (1925); Boger v. Smith, 77 Colo. 475, 238 P. 57 (1925).

And contestors are without right to amend their statement of contest by supplying the very thing which was essential in the first instance to state a ground of contest and give the court jurisdiction. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914).

Causes of contest incorporated by reference. The causes of contest are, insofar as applicable, incorporated by reference into provisions requiring a contestor of the election of county officers to file a written statement setting forth, among other things, the causes of the contest, and hence also into provisions relating to contests in special district elections. Jardon v. Meadowbrook-Fairview Metro. Dist., 190 Colo. 528, 549 P.2d 762 (1976).

B. Causes.

Eligibility is to be determined at the date of qualifying. Cox v. Starkweather, 128 Colo. 89, 260 P.2d 587 (1953).

And the word "eligible" has reference to the capacity not of being elected to office, but of holding office. Cox v. Starkweather, 128 Colo. 89, 260 P.2d 587 (1953).

Thus it is wholly immaterial whether contestee is qualified at the time of election when at the time of taking office his eligibility exists. Cox v. Starkweather, 128 Colo. 89, 260 P.2d 587 (1953).

For the eligibility of a candidate to office is to be ascertained as of the time of his entering upon the duties of the office. Cox v. Starkweather, 128 Colo. 89, 260 P.2d 587 (1953).

Election is contested under subsection (1)(a) when candidate in nonpartisan election did not meet the residency requirement to serve the position. Figueroa v. Speers, 2015 CO 12, 343 P.3d 967.

An election will not be set aside for irregularities unless they affect the result of the election. People v. Keeling, 4 Colo. 129 (1878); Kellogg v. Hickman, 12 Colo. 256, 21 P. 325 (1888); Todd v. Stewart, 14 Colo. 286, 23 P. 426 (1890); Allen v. Glynn, 17 Colo. 338, 29 P. 670 (1892); Smith v. Harris, 18 Colo. 274, 32 P. 616 (1893); People ex rel. Johnson v. Earl, 42 Colo. 238, 94 P. 294 (1908); Littlejohn v. People, 52 Colo. 217, 121 P. 159 (1912); City of Loveland v. Western Light & Power Co., 65 Colo. 55, 173 P. 717 (1918); Suttle v. Sullivan, 131 Colo. 519, 283 P.2d 636 (1955).

The causes for contest make no provision for a contest of an election upon the removal of a county seat, for the only election contests authorized are those of officers. Accordingly, it is also clear that there is no remedy by quo warranto, for that remedy is only employed to test the right of an officer or franchise. People v. Bd. of County Comm'rs, 6 Colo. 202 (1882).

Similarly, failure of election officials to issue absentee ballots upon oral application, although they had previously promised to do so, amounts to nothing as a ground of contest. Graham v. Swift, 123 Colo. 309, 228 P.2d 969 (1951).

And an allegation that the name of the contestee was unlawfully printed upon the official ballot under the name and emblem

of a political party of which he was not the nominee, that the filing of the certificate of nomination of contestee as the nominee of such political party was the result of a fraudulent conspiracy between contestee and the county clerk, and that by reason of having his name so printed under the name and emblem of the said political party he had counted for him a large number of votes to which he was not entitled, sufficient to reduce the number of his votes below the number cast for contestor, does not state a cause for contest under this section. Rather, it was contestor's duty to make his objection to the printing of contestee's name on the official ballot under the name and emblem to which he was not entitled in seasonable time and in the manner provided by the election law, and failing to do so, he cannot be heard after election to urge such objections when to uphold them would be to overthrow the expressed will of a majority of the legal voters of the county. Lewis v. Boynton, 25 Colo. 486, 55 P. 732 (1898).

1-11-202. Who may contest election.

The election of any candidate or the results of an election on any ballot issue or ballot question may be contested by any eligible elector of the political subdivision.

Source: L. 92: Entire article R&RE, p. 786, § 14, effective January 1, 1993. **L. 94:** Entire section amended, p. 1175, § 63, effective July 1.

Cross references: For causes of contest, see § 1-11-201; for contested elections, see C.R.C.P. 100.

1-11-203. Contests arising out of primary elections.

(1) All election contests arising out of a primary election, except contests for national or state offices, shall be summarily adjudicated by the district court sitting for the political subdivision within which a contest arises. The court which first acquires jurisdiction of any contest shall have original jurisdiction, subject to appellate review as provided by law and the Colorado appellate rules. In all cases involving contests for state offices, the supreme court shall take original jurisdiction for the purpose of summarily adjudicating any contest.

(2) Every contest shall be instituted by verified petition to the proper court, setting forth the grounds for the contest. The petition shall be filed and a copy served on the contestee within five days after the occurrence of the grounds of the contest. The contestee shall answer under oath within five days after service. If the petition cannot be personally served within the state on the contestee, service may be made by leaving a copy of the petition with the clerk of the court

having original jurisdiction of the controversy or contest who shall search for the contestee so that an answer may be filed. Upon the expiration of the time for the answer, the court having jurisdiction of the contest shall forthwith set the matter for trial on the merits and shall summarily adjudicate it.

Source: L. 92: Entire article R&RE, p. 786, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-214 as it existed prior to 1992.

ANNOTATION

I. General Consideration.

II. Jurisdiction.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The provision relating to contests arising subsequent to a primary election is not applicable to controversies over the right to appear on the ballot as a designee of a political party for nomination of that party to a particular office. Anderson v. Kilmer, 134 Colo. 270, 302 P.2d 185 (1956).

Summary adjudication of election contests. Election contests shall be "summarily adjudicated" by the court, and strict adherence to procedural requirements is not the rule; as long as due process is afforded and a fair hearing is provided the contestants, the statutory requirements are deemed satisfied. Ray v. Mickelson, 196 Colo. 325, 584 P.2d 1215 (1978).

II. JURISDICTION.

Provision conflicts with U.S. constitution as to jurisdiction over elections for U.S. Senate and House. The provision which purports to vest the Colorado supreme court with jurisdiction to try election contests arising out of a primary election for nomination to the United States Senate and House of Representatives conflicts with article I, section 5(1), of the United States Constitution, allowing each house to "be the judge of the elections, returns, and qualifications of its own member", and in such situation the United States Constitution must prevail: Inasmuch as the authority given Congress by article I, section 4(1), of the United States Constitution to regulate elections for senators and representatives includes the authority to regulate primary elections where, under the law of the state, they are an integral part of the procedure for the choice of representatives in Congress, and it logically follows as a corollary thereof that the provisions of section 5(1) also apply to primary elections for the U.S. Senate and

House of Representatives. Rogers v. Barnes, 172 Colo. 550, 474 P.2d 610 (1970).

III. PETITION.

A. Sufficiency.

B. Service.

A. Sufficiency.

A nominee is under no duty to prove that he has been nominated. People ex rel. Flebbe v. Mitchell, 88 Colo. 102, 292 P. 228 (1930).

But on the contrary, the contesting party must allege sufficient specific facts so that the contestee may be advised with reasonable definiteness and certainty the character of the charges to be met and be thus afforded an opportunity to properly present a defense thereto. People ex rel. Flebbe v. Mitchell, 88 Colo. 102, 292 P. 228 (1930).

For, in election contest proceedings, courts cannot properly embark on a mere fishing expedition by opening ballot boxes when there is an utter lack of specific allegations as to the distribution of votes and no charge of fraud or irregularity. Cruse v. Richards, 95 Colo. 485, 37 P.2d 382 (1934).

And it is always necessary to allege facts which will enable the court to determine that a different result would follow in the vote by reason of such alleged facts. Cruse v. Richards, 95 Colo. 485, 37 P.2d 382 (1934).

Hence, petition which does set out facts is insufficient. A petition in a primary election contest which merely charges a mistake in the counting of votes, and that a recount would result in the nomination of petitioner, without setting out the facts, is insufficient. People ex rel. Flebbe v. Mitchell, 88 Colo. 102, 292 P. 228 (1930).

B. Service.

One proposing to contest a nomination made by petition must follow the provision for contests arising out of primary elections. McCall v. Pearce, 53 Colo. 409, 127 P. 956 (1912).

Or else petitioner's rights may be foreclosed by laches. McCall v. Pearce, 53 Colo. 409, 127 P. 956 (1912).

Furthermore, service of summons in a primary election contest one day later than the time specified will not give the court jurisdiction, notwithstanding the last day upon which service could be made within the statutory time falls on Sunday. Cruse v. Richards, 95 Colo. 485, 37 P.2d 382 (1934).

And a contestee does not waive any objection to defective service of summons by filing a demurrer (now motion to dismiss for failure to state a claim) simultaneously with his motion to dismiss for want of service of process. Cruse v. Richards, 95 Colo. 485, 37 P.2d 382 (1934).

1-11-203.5. Contests concerning ballot order or ballot title - ballot issue or ballot question elections.

(1) Except for petitions for rehearing pursuant to section 1-40-107, all election contests arising out of a ballot issue or ballot question election concerning the order on the ballot or the form or content of any ballot title shall be summarily adjudicated by the district court sitting for the political subdivision within which the contest arises prior to the election. Except as otherwise provided in this section, the style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs shall be according to the rules and practice of the district court. The court that first acquires jurisdiction of any contest shall have exclusive jurisdiction. Before the district court is required to take jurisdiction of the contest, the contestor shall file with the clerk of the court a bond, with sureties, running to the contestee and conditioned to pay all costs, including attorneys fees, in case of failure to maintain the contest. The judge shall determine the sufficiency of the bond and, if sufficient, approve it.

(2) Every such contest shall be commenced by verified petition filed by the contestor to the proper court, setting forth the grounds for the contest and a proposed alternative order for the ballot or alternative form or content for the contested ballot title. The contestee shall be the state in the case of a statewide ballot issue or statewide ballot question or the political subdivision that proposed to place the contested ballot issue or ballot question on the ballot, as applicable, and the petition representative of an initiated measure. The petition shall be filed and a copy served on the contestee within five days after the title of the ballot issue or ballot question is set by the state or political subdivision and for contests concerning the order of a ballot, within five days after the ballot order is set by the county clerk and recorder and not thereafter. The designated election official or other authorized official, on behalf of the contestee and the proponent of an initiated measure, shall answer under oath within five days after service. Upon the expiration of the time for the answer, and following at least twenty-four hours advance notice of the date, time, and place of the adjudication given by the clerk of the court by letter, telephone, or fax to the contestor and contestee, the court having jurisdiction of the contest shall immediately set the matter for trial on the merits and shall adjudicate it within ten days of the date of filing of the answer by the contestee or expiration of the time for the answer.

(3) If the court finds that the order of the ballot or the form or content of the ballot title does not conform to the requirements of the state constitution and statutes, the court shall provide in its order the text of the corrected ballot title or the corrected order of the measures to be placed upon the ballot and shall award costs and reasonable attorneys fees to the contestor. If the court finds that the order of the ballot and the form and content of the ballot title conform to the requirements of the state constitution and statutes and further finds that the suit was frivolous as provided in article 17 of title 13, C.R.S., the court shall provide in its order an award of costs and reasonable attorneys fees to the contestee state or political subdivision and to the proponent of an initiated measure.

(4) Following entry of the order of the district court pursuant to this section, the ballot title shall be certified by the state or political subdivision to the county clerk and recorder, to be voted upon at the election as so certified unless the election on the ballot issue or ballot question is canceled in the manner provided by law. Notwithstanding any other provision of law, any appeal from an order of the district court entered pursuant to this section shall be taken directly to the supreme court, which shall decide the appeal as expeditiously as practicable.

(5) The procedure provided in this section shall be the exclusive procedure to contest or otherwise challenge the order of the ballot or the form or content of the ballot title.

(6) This section shall not apply to a ballot title for a statewide ballot issue or statewide ballot question that is set by a title setting board or court as provided by law.

Source: L. 94: Entire section added, p. 1175, § 64, effective July 1.

ANNOTATION

This section is constitutional and permissibly limits challenges based on the form and content of a ballot title but it cannot and does not time-bar constitutional challenges to the substance of a ballot issue or ballot question. This section does not conflict with art. X, § 20, of the Colorado Constitution because the requirements of that section that relate to ballot titles address only the form and content of ballot titles and not what that section substantively permits voters to approve. Cacioppo v. Eagle County Sch. Dist. RE-50J, 92 P.3d 453 (Colo. 2004).

A challenge to a ballot title involves the substance of a ballot issue if it relates to the language in the ballot title itself and it would be legally impossible for the court hearing the challenge to reform or reword the ballot title to any constitutionally or statutorily acceptable level so that regardless of any contest filed before the election, the ballot issue as approved cannot be upheld under the laws or constitution of the state. Cacioppo v. Eagle County Sch. Dist. RE-50J, 92 P.3d 453 (Colo. 2004).

Subsection (1) confers only limited jurisdiction on courts to consider a challenge to the form or content of the ballot title to the extent the ballot title can be reformed to comply with constitutional requirements. Ward v. State by and through Polis, 2023 CO 45, 534 P.3d 107.

Subsection (1) does not confer jurisdiction on the courts to review a single subject challenge. A single subject violation cannot be remedied by judicial reformation of the ballot title and is not the type of challenge contemplated by subsection (1). Ward v. State by and through Polis, 2023 CO 45, 534 P.3d 107.

A clear expression violation may be amenable to judicial reformation, and, if so, is the type of challenge over which a court

may exercise jurisdiction. Ward v. State by and through Polis, 2023 CO 45, 534 P.3d 107.

A claim that a ballot issue proposed a "phased-in" tax increase and that a ballot title that disclosed only the first rather than the final full fiscal year dollar increase was, therefore, improper involved only the form and content of the ballot title, could be resolved by the type of summary adjudication contemplated by this section, and was time-barred by this section because it was not made within five days of the setting of the ballot title. Cacioppo v. Eagle County Sch. Dist. RE-50J, 92 P.3d 453 (Colo. 2004).

This section does not apply to a notice required by art. X, § 20, of the Colorado Constitution that accompanied a ballot title and, therefore, did not bar claims that such a notice contained inaccurate financial data and had a misleading purpose. Section 1-11-213 (4), however, did bar the claims. Cacioppo v. Eagle County Sch. Dist. RE-50J, 92 P.3d 453 (Colo. 2004).

The final action of a local government legislative body to settle or decide the wording of a ballot title constitutes the setting or fixing of the ballot title under § 31-11-111. Under subsection (2), a person must, therefore, contest the form or content of a ballot title within five days of the legislative body's final action concerning the ballot title. Cacioppo v. Eagle County Sch. Dist. RE-50J, 92 P.3d 453 (Colo. 2004).

The five-day time limit imposed by subsection (2) is constitutional because it is not "manifestly so limited as to amount to a denial of justice". Cacioppo v. Eagle County Sch. Dist. RE-50J, 92 P.3d 453 (Colo. 2004).

Claim that a ballot issue was invalid because it contained multiple purposes is a challenge to the form or content of the ballot title. Consequently, the claim was time-barred because it was not filed within five days after the title of the ballot issue was set. Busse v. City of Golden, 73 P.3d 660 (Colo. 2003).

1-11-204. Contests for presidential elector.

The supreme court of this state has original jurisdiction for the adjudication of contests concerning presidential electors and shall prescribe rules for practice and proceedings for such contests. No justice of the court who is a contestor in the election contest shall be permitted to hear and determine the matter. A contest must be filed with the supreme court no later than twenty-four days after the general election notwithstanding the fact that a recount may be ongoing. The supreme court is required to rule on a contest before the deadline to issue and submit the certificate of ascertainment pursuant to the requirements of the federal "Electoral Count Reform and Presidential Transition Improvement Act of 2022", 3 U.S.C. sec. 5. The supreme court shall prioritize election contests of presidential electors over all regular business of the court so that election results are determined as soon as practicable.

Source: L. 92: Entire article R&RE, p. 786, § 14, effective January 1, 1993. **L. 2024:** Entire section amended, (SB 24-210), ch. 468, p. 3258, § 45, effective June 6.

Editor's note: This section is similar to former § 1-11-202 as it existed prior to 1992.

Cross references: For contested elections, see C.R.C.P. 100.

1-11-205. Contests for state officers.

(1) Proceedings to contest the election of any person declared elected governor, lieutenant governor, secretary of state, state treasurer, attorney general, member of the state board of education, or regent of the university of Colorado may be commenced by filing with the secretary of the senate, between the sixth and tenth legislative days of the first session of the general assembly after the day of the election, a notice of intention to contest the election, specifying the particular grounds on which the contestor means to rely. The contestor shall file with the secretary of the senate a bond, with sureties, running to the contestee and conditioned to pay all costs in case of failure to maintain the contest. The secretary of the senate shall determine the sufficiency of the bond, and, if it is sufficient, approve it.

(2) Upon the notice of intention being filed, and the bond being approved by the secretary of the senate, the general assembly shall determine by resolution on what day they will meet in joint session to take action in the contest.

(3) A certified copy of the notice filed by any contestor shall be served upon the contestee, together with a notice that the contestee is required to attend the joint session on the day fixed to answer the contest.

Source: L. 92: Entire article R&RE, p. 786, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-203 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Resolution that no person was elected may not be adopted. In a contest before the general assembly, the general assembly has no legal authority to adopt a resolution declaring that no person was elected and that a vacancy exists in the office. In re Senate Resolution No. 10, 33 Colo. 307, 79 P. 1009 (1905).

The provision for contesting the election of state officers does not contemplate giving any authority to the general assembly to decide anything more than the issues between the contestor and contestee and render judgment accordingly. In re Senate Resolution No. 10, 33 Colo. 307, 79 P. 1009 (1905).

1-11-206. Evidence in contests for state officers.

On the hearing of any election contest for any of the offices named in section 1-11-205, the parties to the contest may introduce written testimony, taken in a manner prescribed by the joint session. No depositions shall be read in the hearing unless the opposite party had reasonable notice of the time and place of the taking of the deposition.

Source: L. 92: Entire article R&RE, p. 787, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-204 as it existed prior to 1992.

1-11-207. Rules for conducting contests for state officers.

(1) In conducting any election contest for any of the offices named in section 1-11-205, the following rules apply:

(a) On the appointed day and hour, the general assembly, with its proper officers, shall convene in joint session.

(b) The president of the senate shall preside; but, when the president is the contestee, the president pro tempore of the senate shall preside.

(c) The parties to the contest shall then be called by the secretary of the senate. If they answer, their appearance shall be recorded.

(d) The testimony of the contestor shall be introduced first, followed by the testimony of the contestee. After the testimony has been presented on both sides, the contestor or contestor's

counsel may open the argument, and the contestee or counsel may then proceed to make a defense, and the contestor may be heard in reply.

(e) After the arguments by the parties are completed, any member of the joint session may offer the reasons for the member's intended vote. The session may limit the time for argument and debate.

(f) The secretary of the senate shall keep a regular journal of the proceedings. The decision shall be taken by a call of the members, and a majority of all the votes given shall prevail.

Source: L. 92: Entire article R&RE, p. 787, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-205 as it existed prior to 1992.

1-11-208. Contests for state senator or representative.

(1) The election of any person as a state senator or a member of the state house of representatives may be contested by any eligible elector of the district to be represented by the senator or representative. Each house of the general assembly shall hear and determine election contests of its own members. In furtherance of resolving such a contest, the house of the general assembly before which any contest is to be tried shall certify questions pursuant to section 1-11-208.5 to the office of administrative courts for referral to an administrative law judge.

(2) The contestor, within ten days after the completion of the official abstract of votes cast, shall file in the office of the secretary of state a verified statement of intention to contest the election, setting forth the name of the contestor, that the contestor is an eligible elector of the district, the name of the contestee, the office being contested, the time of the election, and the particular grounds for the contest, and shall serve a copy upon the contestee. The contestor shall file with the secretary of state fifteen thousand dollars to be placed in escrow running to the contestee and conditioned to pay all costs in case of failure to maintain the contest.

(3) The contestee, within ten days after personal service of the statement, shall file in the office of the secretary of state an answer, duly verified, admitting or specifically denying each allegation and containing any new matter or counterstatement which the contestee believes may entitle him or her to retain the seat in the general assembly to which elected. The contestee shall serve a copy upon the contestor.

(4) When the answer of the contestee contains new matter constituting a counterstatement, the contestor, within ten days after the service of the answer, shall file in the office of the

secretary of state a reply admitting or specifically denying under oath each allegation contained in the counterstatement, and shall serve a copy upon the contestee.

Source: L. 92: Entire article R&RE, p. 788, § 14, effective January 1, 1993. **L. 99:** (1) amended, p. 1384, § 2, effective June 4; (2) amended, p. 491, § 20, effective July 1. **L. 2005:** (1) amended, p. 852, § 5, effective June 1. **L. 2021:** (2) amended, (SB 21-250), ch. 282, p. 1653, § 51, effective June 21.

Editor's note: This section is similar to former § 1-11-206 as it existed prior to 1992.

ANNOTATION

Authority of courts to determine election controversies when no candidate declared duly elected. State constitutional provisions and statutes permitting general assembly to judge election of members does not limit subject matter jurisdiction of district court to hear controversies related to elections where no candidate is yet declared duly elected by secretary of state. Meyer v. Lamm, 846 P.2d 862 (Colo. 1993) (decided under former law).

1-11-208.5. Certification of questions to administrative law judge.

(1) The house of the general assembly in which any contest for senator or representative, as applicable, is to be tried shall certify questions to the office of administrative courts for referral to an administrative law judge. The questions shall relate exclusively to the election returns in the district and the number of votes cast for each of the candidates for the contested seat. No question may be certified regarding the eligibility or qualification of any person for the contested office.

(2) Upon certification pursuant to subsection (1) of this section, the house of the general assembly in which the contest is to be tried shall transmit to the administrative law judge any papers submitted by the secretary of state pursuant to section 1-11-210 or any other documents submitted to that house in connection with the election contest.

(3) The administrative law judge shall have jurisdiction to make findings of fact on the questions certified by a house of the general assembly pursuant to subsection (1) of this section. Further evidence upon the points specified in such questions may be submitted by the contestor, the contestee, or both, in such contest. The administrative law judge may take and consider such additional evidence but shall limit its findings of fact to the questions certified.

(4) Any issues of law or findings of fact decided in a prior judicial proceeding that affect a party that contests an election for state senator or representative pursuant to section 1-11-208 shall not be conclusive upon an administrative law judge conducting fact finding or making recommendations pursuant to this section.

(5) The administrative law judge shall hold a hearing within twenty days after the date that questions were certified to the administrative law judge pursuant to subsection (1) of this section. The administrative law judge's findings of fact and recommendations shall be completed not more than ten days after the date of the hearing. Such findings of fact and recommendations shall take precedence over all other business of the administrative law judge.

(6) (a) If the administrative law judge finds that, based on a preponderance of the evidence, an accurate and verifiable vote count can be determined in the contested district showing that a person had the highest number of votes cast in the district for the contested state senate or state house of representatives seat, the administrative law judge shall make recommendations to the house that certified the questions, including, but not limited to, that such person be seated as the senator or representative from the contested district.

(b) If the administrative law judge finds that, based on a preponderance of the evidence, irregularities in the votes cast or counted in the district for the contested state senate or state house of representatives seat both prevented an accurate and verifiable vote count and may have directly affected the outcome of the election, the administrative law judge shall make recommendations to the house that certified the questions, including, but not limited to, that such house further resolve the election contest or call a special legislative election pursuant to section 1-11-303.

(7) The administrative law judge shall transmit all the files and records of the proceedings to the presiding officer of the house in which the contest for senator or representative was filed.

(8) The administrative law judge's findings of fact and recommendations shall be final and not be subject to review by any other court.

(9) Upon receipt of such findings of fact and recommendations, the house in which the contest for senator or representative arose may take appropriate action, including, but not limited to:

(a) A trial of the election contest;

(b) Declaration of the duly elected member in the contested district in accordance with the findings of the administrative law judge; or

(c) Adoption of a resolution pursuant to section 1-11-302 calling for a special legislative election.

Source: L. 99: Entire section added, p. 1385, § 3, effective June 4. **L. 2005:** (1) amended, p. 853, § 6, effective June 1.

1-11-209. Depositions in contests for state senator or representative.

(1) Either party, at the time the statement or answer is served, may serve upon the adverse party reasonable notice of taking depositions to be used at trial of the contest for state senator or state representative. Immediately after joining issue of fact, both parties shall proceed with all reasonable diligence to take any depositions they may desire to use at trial. Nothing in this subsection (1) shall abridge the right of either party to take depositions upon reasonable notice prior to the joining of issue in relation to any of the matters in controversy; but a failure to take depositions before the joining of issue shall not be held as laches against either party to the contest.

(2) If, upon the completion of taking any depositions, the adverse party has any witnesses present before the officer taking the depositions whose testimony the adverse party may wish to use in rebuttal of the depositions, the adverse party may proceed immediately to take the deposition of the rebutting witness before the officer, upon giving written notice to the other party or the other party's attorney. The officer shall attach to the depositions a copy of the notice with proof of service and shall return the rebuttal depositions in the same manner provided for returning depositions in chief. The party taking a deposition shall pay all costs of taking the deposition and its return.

(3) The time for taking depositions to be used at trial of the contest shall expire three days prior to the meeting of the next general assembly. Both parties may take depositions at the same time, but neither party shall take depositions at more than one place at the same time. Nothing in this subsection (3) shall be construed to abridge the right of either house of the general assembly, upon good cause shown, to extend the time to take depositions, or to send for and examine any witness, or to take any testimony it may desire to use on trial of the contest, or to order a recount of the ballots if there has been an error in surveying the returns in any county or precinct.

(4) Any county or district judge of or for a county in the judicial district where a contested election case arises may issue subpoenas, compel the attendance of witnesses, take depositions, and certify depositions according to the rules of the district court.

(5) The officer before whom the depositions are taken, upon the completion thereof, shall certify the depositions immediately, shall enclose the depositions, and the notices for taking the depositions, and the proofs of service of the notices in an envelope, and shall seal and transmit the envelope by mail or in person by a sworn officer, to the secretary of state, with an endorsement showing the nature of the papers, the names of the contesting parties, and the house of the general assembly before which the contest is to be tried.

Source: L. 92: Entire article R&RE, p. 789, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-207 as it existed prior to 1992.

Cross references: For depositions, see C.R.C.P. 26 to 37; for causes of contest, see § 1-11-201; for venue, see C.R.C.P. 98 and Crim. P. 18; for contested elections, see C.R.C.P. 100.

1-11-210. Secretary of state to transmit papers in contests for state senator or representative.

The secretary of state shall deliver the sealed envelope containing depositions, notices, and proofs of service, together with the statement of contestor, answer of contestee, and reply, to the presiding officer of the body in which the contest for senator or representative is to be tried, immediately upon the organization of the body or as soon thereafter as documents are received. The presiding officer, immediately upon receiving the documents, shall give notice to the body that the papers are in the officer's possession.

Source: L. 92: Entire article R&RE, p. 790, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-208 as it existed prior to 1992.

1-11-211. Contests for district attorneys.

The district court of the judicial district in which the contest for the office of district attorney arises has jurisdiction for the adjudication of contests for the office of district attorney. No district judge who is a contestor in any election contest shall be permitted to hear and determine the matter. In that case, the supreme court shall appoint a district judge to hear and decide the contest.

Source: L. 92: Entire article R&RE, p. 790, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-209 as it existed prior to 1992.

Cross references: For venue, see C.R.C.P. 98 and Crim. P. 18; for contested elections, see C.R.C.P. 100.

1-11-212. Contests for county and nonpartisan officers - ballot issues and ballot questions.

Contested election cases of county and nonpartisan officers and ballot issues and ballot questions shall be tried and decided by the district court for the county in which the contest arises. If a political subdivision is located in more than one county, the district court of either county may take jurisdiction.

Source: L. 92: Entire article R&RE, p. 790, § 14, effective January 1, 1993. **L. 94:** Entire section amended, p. 1177, § 65, effective July 1.

Editor's note: This section is similar to former § 1-11-201 (1) as it existed prior to 1992.

Cross references: For contested elections, see C.R.C.P. 100.

ANNOTATION

I. General Consideration.

II. Election May be Contested.

III. Bond Required.

V. Answer.

VI. Reception of Illegal Votes or Rejection of Legal Votes.

VII. Reply to Counterstatement.

I. GENERAL CONSIDERATION.

Law reviews. For comment on Porter v. Johnson appearing below, see 2 Rocky Mt. L. Rev. 1311 (1930).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The provision for contesting the election of county officers is not only special in character, but furnishes a complete system of procedure within itself. Schwarz v. County Court, 14 Colo. 44, 23 P.

84 (1890); Kindel v. Le Bert, 23 Colo. 385, 48 P. 641 (1897); Gray v. Huntley, 77 Colo. 478, 238 P. 53 (1925).

The provision for contesting the election of county officers lists the pleadings and time within which they are to be filed. Cox v. Starkweather, 128 Colo. 89, 260 P.2d 587 (1953).

And such system is exclusive. Lewis v. Boynton, 25 Colo. 486, 55 P. 732 (1898).

II. ELECTION MAY BE CONTESTED.

Scope of contest. Contests of the election of any person declared duly elected to any county office, except the office of county judge, are governed by this section. Schwarz v. County Court, 14 Colo. 44, 23 P. 84 (1890); Kindel v. Le Bert, 23 Colo. 385, 48 P. 641 (1897); Gray v. Huntley, 77 Colo. 478, 238 P. 53 (1925).

And election contest over the office of county judge comes under Rule 100, C.R.C.P. Boger v. Smith, 77 Colo. 475, 238 P. 57 (1925).

The judge sitting in term time in his regular capacity as the court for the county is invested with jurisdiction to try and determine contested election cases of county officers. Vailes v. Brown, 16 Colo. 462, 27 P. 495 (1891); Gunson v. Baldauf, 88 Colo. 436, 297 P. 516 (1931).

But whether a judge sitting in vacation may exercise such jurisdiction not determined. Vailes v. Brown, 16 Colo. 462, 27 P. 945 (1891).

A contest proceeding is initiated by the filing of a bond and a statement of contest. Gunson v. Baldauf, 88 Colo. 436, 297 P. 516 (1931).

III. BOND REQUIRED.

The bond for costs is for the benefit of the contestee. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

And whether it be given or not in the first instance does not affect the jurisdiction of the court. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

So contestee must object. If no bond for costs be given when the action is commenced, or if the one accepted be insufficient, it is incumbent upon the contestee, to object at the earliest opportunity. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

Otherwise, he will waive his rights in this respect. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

The cost bond should not be in any specified penalty, but should be conditioned for the payment of all costs. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

But the contestee cannot object to the bond because a penalty is specified, in the absence of a showing that the penalty fixed is insufficient to cover the probable costs which he may incur in the case. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

Attorney fees are not included in "all costs". Amaya v. Dist. Court, 197 Colo. 129, 590 P.2d 506 (1979).

IV. STATEMENT OF CONTEST.

A. Filing.

B. Requisites of Statement.

A. Filing.

The contest must be filed within 10 days after the date when the votes are canvassed. Vigil v. Garcia, 36 Colo. 430, 87 P. 543 (1906).

And this means all the votes. Vigil v. Garcia, 36 Colo. 430, 87 P. 543 (1906).

However, it does not mean a sufficient number to show that one or the other of the parties was elected. Vigil v. Garcia, 36 Colo. 430, 87 P. 543 (1906).

But it means the votes of the entire county. Vigil v. Garcia, 36 Colo. 430, 87 P. 543 (1906).

And if for any reason one or more precincts are not canvassed at the time of the first sitting of the board, the statute will not commence to run until those precincts are canvassed, even though the returns from those precincts, when counted, will not affect the result as between candidates for any single office. Vigil v. Garcia, 36 Colo. 430, 87 P. 543 (1906).

Moreover, the contest provision is to be construed as a statute of limitations upon a summary proceeding. Vailes v. Brown, 16 Colo. 462, 27 P. 945, 14 L.R.A. 120 (1891).

Whose time limit may not be enlarged. A statutory provision requiring notice of contest to be given within a given time from either the date of the official count, the declaration of the result, or the issuing of the certificate of election, etc., is peremptory, and the time cannot be enlarged. Vailes v. Brown, 16 Colo. 462, 27 P. 945 (1891).

And there is the strongest reason for enforcing this rule most rigidly in cases of contested elections, because promptness in commencing and prosecuting the proceedings is of the utmost importance to the end that a decision may be reached before the term has wholly, or in great part, expired. Vailes v. Brown, 16 Colo. 462, 27 P. 945 (1891).

Furthermore, time cannot be extended on ground that last day falls on Sunday. When the statutory period for filing the statement of an election contest for county officers under this section has fully elapsed, excluding the day when the votes are canvassed, the time cannot be extended merely on the ground that the last day happens to fall on Sunday. This is the reasonable as well as the natural and literal interpretation of the section. Vailes v. Brown, 16 Colo. 462, 27 P. 945 (1891).

Although it is clear that the first day must be excluded, for the contestor is given 10 days after the day when the votes are canvassed to file his statement. Vailes v. Brown, 16 Colo. 462, 27 P. 945 (1891).

B. Requisites of Statement.

There must be reasonable definiteness in statements of election contests. Suttle v. Sullivan, 131 Colo. 519, 283 P.2d 636 (1955).

A statement of contest which contains the averments and matters required by statute is sufficient to state a cause of

action and sufficiently alleges the qualifications of the contestor to hold the office. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

Hence, statement must include the particular cause of the contest. A contest proceeding is initiated by the filing of a statement of contest, the contents of which must conform to this section, and include the particular cause or causes of the contest. Gunson v. Baldauf, 88 Colo. 436, 297 P. 516 (1931).

Causes of contest incorporated by reference. The causes of contest are, insofar as applicable, incorporated by reference into the provision requiring a contestor of the election of county officers to file a written statement setting forth, among other things, the causes of the contest, and hence also into the provision relating to contests in special district elections. Jardon v. Meadowbrook-Fairview Metro. Dist., 190 Colo. 528, 549 P.2d 762 (1976).

Where the statement does not allege facts showing that the irregularities complained of changed the result of the election, the statement does not state a cause of action. Suttle v. Sullivan, 131 Colo. 519, 283 P.2d 636 (1955).

Statement of contestor that he is "an elector of the county" is a material averment and must be proved if denied by the answer or the contest as such must fail. Clanton v. Ryan, 14 Colo. 419, 24 P. 258 (1890).

Nor is the contestor excused from producing evidence in support of such averment on the ground that other competent evidence is refused. Clanton v. Ryan, 14 Colo. 419, 24 P. 258 (1890).

Statement may be amended as to proper name of contestee. Where there was an admitted mistake in naming the contestee in an election contest, a trial court errs in denying contestor's motion to amend the statement of contest. Graham v. Swift, 123 Colo. 309, 228 P.2d 969 (1951).

V. ANSWER.

If contestee desires to controvert the truth of the matters averred in the statement of contest, he must do so by filing an answer in the time prescribed. Lewis v. Boynton, 25 Colo. 486, 55 P. 732 (1898).

And contestee cannot avail himself of a demurrer (now motion to dismiss for failure to state a claim) for the purpose for which it is ordinarily used. Lewis v. Boynton, 25 Colo. 486, 55 P. 732 (1898).

But if he elects to interpose such a demurrer (now motion to dismiss), it must be regarded as the equivalent of an answer admitting the truth of the matters averred, in which case it is unnecessary to introduce evidence in support of the allegations of the statement of contest. Lewis v. Boynton, 25 Colo. 486, 55 P. 732 (1898).

VI. RECEPTION OF ILLEGAL VOTES OR REJECTION OF LEGAL VOTES.

Although a slight ambiguity exists, the evident purpose of including the list of disputed votes is to require each party to give the other notice of the names of such persons as he claims illegally voted for his

competitor and of those whose votes for himself were illegally rejected. Schwarz v. County Court, 14 Colo. 44, 23 P. 84 (1890).

This provision is mandatory. The provision that, where the reception of illegal votes is the ground of contest, a list of the persons alleged to have voted illegally must be set forth in the statement of contest is mandatory. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914); Israel v. Wood, 98 Colo. 495, 56 P.2d 1324 (1936); Graham v. Swift, 123 Colo. 309, 228 P.2d 969 (1951).

And it must be strictly construed. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914).

Moreover, the provisions of the rules of civil procedure have no application. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914).

Consequently, in order to give the court jurisdiction, the contest statement must contain the required list. Schwarz v. County Court, 14 Colo. 44, 23 P. 84 (1890); Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914).

And an amendment to the statement to include the name of the voters is not permissible. Town of Sugar City v. Bd. of Comm'rs, 57 Colo. 432, 140 P. 809 (1914); Kay v. Strobeck, 81 Colo. 144, 254 P. 150 (1927).

Also, the omission to furnish the required list of names cannot be justified by subsequently alleging that the information necessary to prepare the same was in the hands of contestee by whose fraud and violence contestor was prevented from obtaining it when no effort was made in the first instance to either comply with the section or to excuse the failure. Schwarz v. County Court, 14 Colo. 44, 23 P. 84 (1890).

Hence, there is no error in the refusal of the court to declare a vote illegal where the voter's name was not set forth in the statement of contest. Kay v. Strobeck, 81 Colo. 144, 254 P. 150 (1927).

List concerning absentee voters held not to meet requirements. Where exhibit incorporated into statement of contest contained a long list of names of persons applying for and voting absentee ballots, but there was nothing in the list to indicate how many persons therein named were not legally qualified residents of the county, or who were not qualified by reason of mental or physical incompetence, or who had subscribed to an oath before a person unauthorized to administer the same, the statement of contest failed to meet the requirements for supplying a list of disputed votes. Graham v. Swift, 123 Colo. 309, 228 P.2d 969 (1951).

However, list not required where no "rejection" or "reception" of votes. In an election contest where the contestor alleged that two legal ballots had been rejected after they had been placed in the box, the polls had closed, and the ballots had been counted and canvassed, the ground of contest was not the "rejection" of legal votes or the "reception" of illegal votes, and the contestor was not required to set forth in his statement of contest a list of the number of persons who "so voted" or "offered to vote".

Waggoner v. Barela, 123 Colo. 436, 230 P.2d 586 (1951).

And a vote is rejected when an elector offers to vote and is not permitted to cast a ballot; the rejected vote is a vote that is not cast - one that did not reach the ballot box. Waggoner v. Barela, 123 Colo. 436, 230 P.2d 586 (1951).

But if an elector is permitted to cast a ballot and to deposit it in the ballot box, the vote is accepted and must be counted unless it is attacked upon the other ground named in the statute, to wit, "the reception of illegal" votes, in which event the contest provision requires a list of the names of the persons who "so voted", that is, who voted illegally, to be set out in the statement of contest. Waggoner v. Barela, 123 Colo. 436, 230 P.2d 586 (1951).

For the term "so voted" refers to alleged illegal votes in the ballot box. Waggoner v. Barela, 123 Colo. 436, 230 P.2d 586 (1951).

While the term "or offered to vote" refers to electors, the rejected votes of whom were not cast or placed in the ballot box. Waggoner v. Barela, 123 Colo. 436, 230 P.2d 586 (1951).

Notwithstanding, illegal votes, whether challenged or not, may be considered in an election contest. Russell v. Wheeler, 165 Colo. 296, 439 P.2d 43 (1968).

As there is no statutory requirement that contested votes must be votes which are challenged at the polling place. Russell v. Wheeler, 165 Colo. 296, 439 P.2d 43 (1968).

However, where contestor alleges that an ineligible voter's ballot was received and counted for contestee, the burden is on the contestor to prove this necessary allegation contained in his statement of contest. Porter v. Johnson, 85 Colo. 440, 276 P. 333 (1929).

VII. REPLY TO COUNTERSTATEMENT.

Contestor's assertion of counterstatement's failure to state a claim does not deprive contestee's right to proof. In view of the specific denial of the charges made in the statement of contest, the counterstatement of contest filed by contestee, and the requirement that judgment be pronounced, it would be unreasonable to hold that the contestor's demurrer (now motion to dismiss for failure to state a claim) under such circumstances would deprive the contestee of the right to demand proof of the charges made by the contestor and to introduce testimony in support of his counterstatement of contest, inasmuch as such a ruling would deny the contestee his day in court. Gunson v. Baldauf, 88 Colo. 436, 297 P. 516 (1931).

1-11-212.5. Contests concerning bond elections.

Except as otherwise provided in this part 2, the result of an election on a ballot issue seeking approval to create any debt or other financial obligation may be contested based on the grounds

set forth in section 1-11-201 (4) in the manner provided by this part 2 for contesting the result of any other election.

Source: L. 2003: Entire section added, p. 749, § 3, effective August 6.

1-11-213. Rules for conducting contests in district court.

(1) The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs and execution shall be according to the rules and practice of the district court.

(2) Change of venue may be taken from any district court for any cause in which changes of venue might be taken in civil or criminal actions. The decisions of any district court are subject to appellate review as provided by law and the Colorado appellate rules.

(3) Before the district court is required to take jurisdiction of the contest, the contestor shall file with the clerk of the court a bond, with sureties, running to the contestee and conditioned to pay all costs in case of failure to maintain the contest. The judge shall determine the sufficiency of the bond and, if it is sufficient, approve it.

(4) The contestor, within ten days after the official survey of returns has been filed with the designated election official, shall file in the office of the clerk of the district court a written statement of the intention to contest the election, setting forth the name of the contestor, that the contestor is an eligible elector of the political subdivision, the name of the contestee, the office or ballot issue or ballot question being contested, the time of the election, and the particular grounds for the contest. The statement shall be verified upon information and belief by the affidavit of the contestor or of an eligible elector of the political subdivision. If the contest is based upon a ballot issue or ballot question, the political subdivision or subdivisions for which the ballot issue or ballot question was decided shall be named as a contestee. If a written statement of intent to contest the election is filed more than ten days after the completion of the official survey of returns, no court shall have jurisdiction over the contest.

(5) The clerk of the district court shall then issue a summons in the ordinary form, in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court to which the action is being brought, the political subdivision for which the contest is filed, and a brief statement of the grounds for contest as set forth in the contestor's statement. The summons shall be served upon the contestee and political subdivision in the same manner as other district court summonses are served in this state, within ten days after the statement of intention is filed.

(6) The contestee, within ten days after the service of the summons, shall file an answer with the clerk of court, which admits or specifically denies each allegation of the statement and asserts

any counterstatement on which the contestee relies as entitling him or her to the office to which elected.

(7) If a contestor alleges the reception of illegal votes or the rejection of legal votes as the grounds for the contest, a list of the eligible electors who so voted or offered to vote shall be set forth in the statement of the contestor and likewise in the answer of contestee if the same grounds are alleged in the counterstatement.

(8) When the answer of the contestee contains a new matter constituting a counterstatement, within ten days after the answer is filed, the contestor shall file a reply with the clerk of court admitting or specifically denying, under oath, each allegation contained in the counterstatement.

Source: L. 92: Entire article R&RE, p. 790, § 14, effective January 1, 1993. **L. 94:** (4) and (5) amended, p. 1177, § 66, effective July 1.

Editor's note: This section is similar to former § 1-11-210 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Timing requirement for an election contest not met by a lawsuit for injunctive relief filed prior to the election. The phrase "within ten days after" imposes two sequential conditions on an election contest: (1) "[A]fter" certification of election results, and (2) "within" 10 days. Neither condition was met. Taxpayers Against Congestion v. Reg'l Transp. Dist., 140 P.3d 343 (Colo. App. 2006).

This section governs the time for appeal concerning challenges to election results. Cacioppo v. Eagle County School District Re-50J, 92 P.3d 453 (Colo. 2004); UMB Bank v. Landmark Towers Ass'n, 2017 CO 107, 408 P.3d 836.

This section is a non-claim statute that prohibits absolutely the initiation of litigation after a specific period of time as a jurisdictional matter. The doctrine of equitable estoppel is therefore not available to save an election contest if the contestor fails to file a written statement of intent to contest the election within the ten-day limit specified in subsection (4). UMB Bank v. Landmark Towers Ass'n, 2017 CO 107, 408 P.3d 836.

Claim that ineligible voters participated in an election and that eligible electors did not receive notice of the election and therefore were deprived of the opportunity to participate in it is not a challenge to the substance of the ballot issue. Instead, it is a challenge to the means by which the election results were

obtained and is thus subject to the requirement of subsection (4) that the contestor file a written statement of intent to contest an election within ten days after the official survey of returns has been filed with the designated election official. UMB Bank v. Landmark Towers Ass'n, 2017 CO 107, 408 P.3d 836.

Subsection (4) barred claims that a notice required by art. X, § 20, of the Colorado Constitution that accompanied a ballot title contained inaccurate financial data and had a misleading purpose, because the claims did not involve the legality or constitutionality of the ballot issue's substance but instead concerned only the means by which election results were obtained. Cacioppo v. Eagle County Sch. Dist. RE-50J, 92 P.3d 453 (Colo. 2004).

Subsection (6) mandates factual specificity. Where the cause of a contest in an action challenging a school bond issue is that illegal votes have been received, subsection (6) mandates factual specificity. Abts v. Bd. of Educ., 622 P.2d 518 (Colo. 1980).

1-11-214. Trial and appeals in contests for county and nonpartisan elections.

(1) Immediately after the issue is joined, the district judge shall set the date for trial, which shall be not more than twenty days nor less than ten days after the issue was joined. The trial shall take precedence over all other business of the court. Any depositions to be used in the trial may be taken upon four days' notice before any officer authorized to take depositions. The testimony at trial may be made orally or by depositions. The district judge shall cause the testimony to be taken in full and filed in the cause. The trial shall be conducted according to district court rules and practice.

(2) An appeal from the judgment may be taken to the supreme court, in the same manner as other cases tried in the district court. The appeal shall be filed, the bill of exceptions settled, the bond for costs executed and filed, and the record transmitted to the clerk of the supreme court within twenty days from the date the judgment is entered. The supreme court shall advance the case to the head of the calendar and shall hear and determine the matter with all reasonable dispatch.

Source: L. 92: Entire article R&RE, p. 792, § 14, effective January 1, 1993.

Editor's note: This section is similar to former § 1-11-211 as it existed prior to 1992.

Cross references: For depositions, see C.R.C.P. 26 to 37; for trial of contested elections, see C.R.C.P. 100.

ANNOTATION

I. General Consideration.

II. Trial.

III. Appeal.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

II. TRIAL.

Purpose of fixing day for trial. This section requiring a judge, in an election contest case, to fix a day for trial not more than twenty days after the issue is joined is for the purpose of enabling a speedy trial and is for the benefit of both parties. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

But this requirement may be waived by both parties consenting to fixing the date of trial at a later date. Nicholls v. Barrick, 27 Colo. 432, 62 P. 202 (1900).

However, there is no specific provision for a change of the place of trial. Nordloh v. Packard, 45 Colo. 515, 101 P. 787 (1909).

Nor is there a provision for an application for calling in another judge to try the case upon the ground of prejudice or partiality of the presiding judge. Nordloh v. Packard, 45 Colo. 515, 101 P. 787 (1909).

And so, in the absence of any such authority, the rules of civil procedure should be followed. Nordloh v. Packard, 45 Colo. 515, 101 P. 787 (1909).

Under the rules, a party has not the absolute right to have his cause tried by a judge other than the regularly elected and presiding judge of the court on the alleged ground of the latter's prejudice. The matter lies in the sound discretion of the judge to whom the application is made, and his decision is not reviewable unless an abuse of discretion is shown. Doll v. Stewart, 30 Colo. 320, 70 P. 326 (1902); People ex rel. Lindsley v. District Court, 30 Colo. 488, 71 P. 388 (1903); Nordloh v. Packard, 45 Colo. 515, 101 P. 787 (1909).

Furthermore, an election contest may be tried notwithstanding a change of judges after its commencement, though the successor must conduct the trial de novo. Clanton v. Ryan, 14 Colo. 419, 24 P. 258 (1890); Nordloh v. Packard, 45 Colo. 515, 101 P. 787 (1909).

And by the words "other cases" must be understood ordinary civil actions. Clanton v. Ryan, 14 Colo. 419, 24 P. 258 (1890).

But it is not "according to the rules and practice" in the trial of ordinary civil actions for one judge to hear the evidence, or a part thereof, orally, and then for another judge to render a finding and judgment upon such evidence, however perfectly the same may have been preserved. Clanton v. Ryan, 14 Colo. 419, 24 P. 258 (1890).

The object of requiring testimony to be preserved is for convenient reference afterwards, or for use on appeal, or as a

deposition in case a second trial should be had when witnesses should have died or removed from the county. Clanton v. Ryan, 14 Colo. 419, 24 P. 258 (1890).

Where an election contest is dismissed by contestant, over the objection of the contestee, after answer and replication are filed, such dismissal is not a bar to another contest depending on the same facts. Freas v. Engelbrecht, 3 Colo. 377 (1877); Hallack v. Loft, 19 Colo. 74, 34 P. 568 (1893); Martin v. McCarthy, 3 Colo. App. 37, 32 P. 551 (1893); Denver & R. G. R. R. v. Iles, 25 Colo. 19, 53 P. 222 (1898); Bd. of Comm'rs v. Schradsky, 31 Colo. 178, 71 P. 1104 (1903); Vigil v. Garcia, 36 Colo. 430, 87 P. 543 (1906).

III. APPEAL.

Limitation upon appeals not repealed by provision for review. Provision that writs of error (now writs on appeal) to any inferior tribunal shall be the only method for review by the supreme court of any action or proceeding, and repealing all statutes providing any other method or procedure for review, did not repeal the 20-day limitation upon appeals of election contest decisions. Sitler v. Brians, 126 Colo. 370, 251 P.2d 319 (1952).

Hence, the attempted review of an action to contest election not docketed in the supreme court within 20 days from the date of judgment is not sought in apt time and a motion to dismiss should be granted. Sitler v. Brians, 126 Colo. 370, 251 P.2d 319 (1952).

Moreover, an application to advance a cause to the head of the calendar in the supreme court will not be considered until the abstract and all the briefs have been filed in accordance with the rule of court and the case is ready for submission. Dickinson v. Freed, 24 Colo. 483, 52 P. 209 (1898).

And objections of contestor not presented by the verified statement of contest cannot be considered on review. Israel v. Wood, 98 Colo. 495, 56 P.2d 1324 (1936).

When dismissal judgment must be affirmed. If the dismissal of an election contest is proper upon any ground, whether or not the trial court relied thereon, the judgment must be affirmed. Graham v. Swift, 123 Colo. 309, 228 P.2d 969 (1951).

And the reason assigned by the trial court may in itself be insufficient to warrant the judgment, but if upon other grounds the judgment is correct, it will not be reversed because of faulty reasoning. Graham v. Swift, 123 Colo. 309, 228 P.2d 969 (1951).

Thus if a statement of contest is insufficient to justify further proceedings, then the judgment of the court dismissing the action should be affirmed, notwithstanding the fact that no motion was presented in the trial court challenging the sufficiency of said statement and no specification of points with relation thereto appears in the record. Graham v. Swift, 123 Colo. 309, 228 P.2d 969 (195l).

1-11-215. Recount in contests for county and nonpartisan elections.

If, at trial of any election contest as provided in section 1-11-214 and this section, the statement or counterstatement alleges an error in the abstract of votes cast sufficient to change the result, the district judge has the power to order a recount of the ballots cast or the votes tabulated in the precincts in which the alleged error was made. The court may also require the production before it of witnesses, documents, records, and other evidence as may have or contain information regarding the legality of any vote cast or counted for either of the contesting candidates or a ballot issue or ballot question, or concerning the correct number of votes cast for a candidate or a ballot issue or ballot question. The court may order the returns corrected in accordance with the evidence presented and the court's findings.

Source: L. 92: Entire article R&RE, p. 792, § 14, effective January 1, 1993. **L. 94:** Entire section amended, p. 1178, § 67, effective July 1. **L. 99:** Entire section amended, p. 491, § 21, effective July 1.

Editor's note: This section is similar to former § 1-11-212 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Contestor has no absolute and unqualified right to have ballot boxes opened and a recount of ballots. Kindel v. Le Bert, 23 Colo. 385, 48 P. 641 (1897); Boger v. Smith, 77 Colo. 475, 238 P. 57 (1925); Gray v. Huntley, 77 Colo. 478, 238 P. 53 (1925).

Rather, before such an order can be properly made, there must be some preliminary evidence supporting the alleged charges. Kindel v. Le Bert, 23 Colo. 385, 48 P. 641 (1897); Gray v. Huntley, 77 Colo. 478, 238 P. 53 (1925).

And then the matter is within the sound legal discretion of the trial court. Kindel v. Le Bert, 23 Colo. 385, 48 P. 641, 58 Am. St. R. 234 (1897); Gray v. Huntley, 77 Colo. 478, 238 P. 53 (1925); Harper v. City of Pueblo, 109 Colo. 411, 126 P.2d 339 (1942).

In addition, the exercise of such discretion, when within the limits of the constitution and statutes, is final on review when wisely exercised. Gray v. Huntley, 77 Colo. 478, 238 P. 53 (1925); Winters v. Pacheco, 88 Colo. 105, 292 P. 106l (1930).

Ballot boxes should not be ordered open until some positive proof is offered to show that the election returns are not justified by the ballots in the ballot boxes.

Winters v. Pacheco, 88 Colo. 105, 292 P. 1061 (1930).

And definite allegations of fraud or allegations that a recount will change the result, and a prima facie showing thereof, are essential for a recount. Kindel v. Le Bert, 23 Colo. 385, 48 P. 641 (1897); Harper v. City of Pueblo, 109 Colo. 411, 126 P.2d 339 (1942).

For, in the absence of a definite and specific assertion, no recount is allowed. Harper v. City of Pueblo, 109 Colo. 411, 126 P.2d 339 (1942).

But when this preliminary proof is offered, it would be a gross abuse of discretion for a court to deny contestor the right to substantiate his cause by documentary evidence. Winters v. Pacheco, 88 Colo. 105, 292 P. 1061 (1930).

And since the ballot itself is the best evidence, with all other secondary, it is idle to require witnesses to testify as to the illegibility of a ballot which can be produced and thereby refute or confirm their statements with reference to it. Winters v. Pacheco, 88 Colo. 105, 292 P. 106l (1930).

Thus, where two witnesses testified that they had seen a questioned ballot and that it was absolutely illegible, this was sufficient proof to justify an order of court for the opening of the ballot box and production of the ballot where the result of the election depended on such. Winters v. Pacheco, 88 Colo. 105, 292 P. 1061 (1930).

Also, comparison of ballots with the poll lists is allowed in connection with evidence. Upon the production of evidence tending to show error, mistake, fraud, malconduct, or corruption on the part of the election board, or any of its members, in the matter of receiving, numbering, depositing, or canvassing the ballots, or other illegal or irregular conduct in respect thereto, an inspection and comparison of the ballots with the poll lists should be allowed in connection with the oral evidence in reference thereto. Clanton v. Ryan, 14 Colo. 419, 24 P. 258 (1890).

Charge in answer sufficient to entitle contestor to recount as matter of course. Where the answer charged that the boxes had been tampered with and had not been preserved by the county clerk in the manner provided by law, the contestor assumed the burden of proving that they had not been tampered with or molested, that they were in the same condition as when received by the clerk, and under the issues as made by the pleadings, the contestor was entitled to a recount of these ballots as a matter of course. Wiley v. McDowell, 55 Colo. 236, 133 P. 757 (1913).

1-11-216. Judgment in contests for county and nonpartisan elections.

The district court shall pronounce judgment on whether the contestee or any other person was legally elected to the contested office or on whether the ballot issue or ballot question was enacted. The court's judgment declaring a person elected entitles that person to take office when the term of office begins, upon proper qualification. If the judgment is against a contestee who

has received a certificate, the judgment annuls the certificate. If the court finds that no person was legally elected, the judgment shall set aside the election and declare a vacancy in the office contested.

Source: L. 92: Entire article R&RE, p. 792, § 14, effective January 1, 1993. **L. 94:** Entire section amended, p. 1178, § 68, effective July 1.

Editor's note: This section is similar to former § 1-11-213 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

Candidate elected but unqualified to serve. An unqualified candidate was legally elected despite not meeting the residency requirement because the candidate received the most legal votes and a court did not deem the candidate unqualified prior to the election, and the opponent did not receive the most legal votes. Because the candidate who was legally elected was not qualified to serve in the office for which the candidate was elected, the district court correctly declared a vacancy in the office. Figueroa v. Speers, 2015 CO 12, 343 P.3d 967.

Court cannot after lapse of term suspend execution of judgment. Nordloh v. Packard, 45 Colo. 515, 101 P. 787 (1909).

And even during the term at which an election contest is determined, the court has no power to suspend execution of a judgment which awards the office to the contestor. Nordloh v. Packard, 45 Colo. 515, 101 P. 787 (1909).

1-11-216.5. Judgment in election contests - creation of financial obligation.

The district court shall pronounce judgment on whether the approval of a ballot issue to create any debt or other financial obligation should be set aside based on the grounds set forth in section 1-11-201 (4).

Source: L. 2003: Entire section added, p. 749, § 3, effective August 6.

1-11-217. Costs of election contest.

(1) A judgment against the contestor pursuant to the provisions of sections 1-11-211 and 1-11-212, concerning election of a candidate or determination of a ballot question, shall provide that the contestor is liable for all fees incurred in the contested election by all contestees, including reasonable costs and attorney fees.

(2) A judgment against the contestor pursuant to the provisions of sections 1-11-211 and 1-11-212, concerning the determination of a ballot issue, or pursuant to section 1-11-212.5, concerning the determination of a ballot issue that includes approval of the creation of any debt or other financial obligation, shall provide that the contestor is liable for all fees incurred in the contested election by all contestees, including reasonable costs and attorneys fees, but a judgment for costs and fees shall be awarded in favor of the state or a political subdivision only if the suit is ruled frivolous, as provided in article 17 of title 13, C.R.S.

Source: L. 92: Entire article R&RE, p. 793, § 14, effective January 1, 1993. **L. 94:** Entire section amended, p. 1178, § 69, effective July 1. **L. 2003:** (2) amended, p. 750, § 4, effective August 6.

1-11-218. Violations by the governing body.

(1) If the results of any county or nonpartisan election are disallowed as the result of a proceeding held pursuant to sections 1-11-211 and 1-11-212, the elector who instituted the proceedings may commence a civil action to recover costs and reasonable attorney fees from the governing body.

(2) If the result of any election approving the creation of any debt or other financial obligation is set aside as the result of a proceeding held pursuant to this part 2, the elector who instituted the proceeding may commence a civil action to recover costs and reasonable attorney fees from the governing body.

Source: L. 92: Entire article R&RE, p. 793, § 14, effective January 1, 1993. **L. 94:** Entire section amended, p. 1179, § 70, effective July 1. **L. 2003:** Entire section amended, p. 750, § 5, effective August 6.

PART 3

SPECIAL LEGISLATIVE ELECTION PROCEDURE - MEMBERS OF THE GENERAL ASSEMBLY

1-11-301. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) Section 10 of article V of the Colorado constitution provides that each house of the general assembly shall judge the election and qualification of its members;

(b) Section 11 of article VII of the Colorado constitution authorizes the general assembly to pass laws to secure the purity of elections;

(c) In furtherance of these constitutional provisions and the plenary power of the general assembly, the general assembly may enact laws to enable a house of the general assembly to call a special legislative election in the event such house is unable to declare a person duly elected in a district as a member of the state senate or the state house of representatives because an accurate and verifiable vote count showing that the person has the highest number of votes cast in such district cannot be obtained from the general election returns.

Source: L. 99: Entire part added, p. 1386, § 4, effective June 4.

1-11-302. Causes of special legislative election.

(1) The state senate or the state house of representatives, acting by resolution, may call a special legislative election for a state senate or house of representatives district following any general election pursuant to this part 3 if:

(a) The election of any person as a member of the state senate or the state house of representatives is contested pursuant to section 1-11-208; and

(b) A committee on credentials, a committee of reference, or an administrative law judge pursuant to section 1-11-208.5 recommends a special legislative election.

(2) Such resolution shall direct the secretary of state to give notice to the county clerk and recorder of each county in which such district is located to call a special legislative election for the entire district pursuant to section 1-11-303. Such resolution shall further specify that the candidates at such election shall, subject to the withdrawal of a candidate pursuant to section 1-11-306, be the same as the candidates on the ballot in such district for the state senate or the state house of representatives seat at the preceding general election from which the election contest arises.

Source: L. 99: Entire part added, p. 1387, § 4, effective June 4. **L. 2016:** IP(1) amended, (SB 16-142), ch. 173, p. 587, § 63, effective May 18.

1-11-303. Call for special legislative election.

(1) Within three days after receipt of a resolution calling for a special legislative election pursuant to section 1-11-302, the secretary of state shall make and deliver or transmit to the county clerk and recorder of each county in which the district for the contested state senate or house of representatives seat is located a written notice calling a special legislative election in said district. The secretary of state shall further specify the name and party of each candidate and the district number of the contested state senate or house of representatives seat. Except as otherwise provided in section 1-11-306, candidates shall be the same as the candidates on the ballot in such district for the state senate or house of representatives at the preceding general election from which the contest was filed pursuant to section 1-11-208.

(2) A special legislative election called pursuant to this section shall be held in the entire district for the contested state senate or state house of representatives seat and no precinct or precincts in the district may be excluded from such election.

Source: L. 99: Entire part added, p. 1387, § 4, effective June 4.

1-11-304. Date of election.

Within three days after receipt of the secretary of state's notice pursuant to section 1-11-303, the county clerk and recorder or coordinated election official shall set a date for the special legislative election that is not less than forty-five days nor more than sixty days from the date of such receipt.

Source: L. 99: Entire part added, p. 1387, § 4, effective June 4.

1-11-305. Notice of special legislative election.

The county clerk and recorder shall give notice of the special legislative election pursuant to section 1-5-205.

Source: L. 99: Entire part added, p. 1388, § 4, effective June 4. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 587, § 64, effective May 18.

1-11-306. Withdrawal from special legislative election.

A candidate on the ballot at the special legislative election may withdraw his or her candidacy at any time after the notice of special legislative election given under section 1-11-305. The special legislative election shall be called and held notwithstanding such withdrawal; except that, if, at the close of business on the tenth day before such election, there is not more than one candidate on the ballot by reason of such withdrawal, the designated election official shall cancel the election and declare the candidate elected. Notice of such cancellation shall be made as provided in section 1-5-208 (6).

Source: L. 99: Entire part added, p. 1388, § 4, effective June 4.

1-11-307. Conduct of special legislative election.

The special legislative election shall be conducted according to the provisions of articles 1 to 13 of this title.

Source: L. 99: Entire part added, p. 1388, § 4, effective June 4.

1-11-308. Mail-in ballots. (Repealed)

Source: L. 99: Entire part added, p. 1388, § 4, effective June 4. **L. 2007:** Entire section amended, p. 1796, § 63, effective June 1. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-11-309. Early voting. (Repealed)

Source: L. 99: Entire part added, p. 1388, § 4, effective June 4. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-11-310. Survey of returns.

(1) The board of canvassers for a special legislative election shall be organized as provided in section 1-10-101.

(2) The county clerk and recorder shall contact the secretary of state on election night with the unofficial count.

(3) The board of canvassers for a special legislative election shall commence a survey of the returns on the day following such election.

(4) The certified survey of returns shall be sent by certified mail or hand delivered to the secretary of state no later than the close of business on the fifth day after the special legislative election.

(5) Upon receipt of the certified survey of returns, the secretary of state shall issue a certificate of election to the candidate who received the highest number of votes and shall transmit a copy of the certificate to the appropriate house of the general assembly.

Source: L. 99: Entire part added, p. 1388, § 4, effective June 4.

1-11-311. Special legislative elections subject to "Fair Campaign Practices Act".

Special legislative elections conducted in accordance with this part 3 are subject to the appropriate sections of article 45 of this title.

Source: L. 99: Entire part added, p. 1389, § 4, effective June 4.

ARTICLE 12

Recall and Vacancies in Office

PART 1
RECALL FROM OFFICE

1-12-100.5. Definitions.

1-12-101. Elected officers subject to recall.

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1-12-111.7. Recall election notice - publication.

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1-12-114. Mail ballots - plan required - voter service and polling centers - number required - definition.

1-12-115. Write-in candidates.

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1-12-117. Nomination of successor - ballot certification.

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1-12-118.5. Postelection protest of successor candidate qualification - procedure.

1-12-119. Canvass of votes - notification of results.

1-12-120. Cost of recall election.

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1-12-123. Conflicts with constitutional requirements for recall of state officers or other elections laws.

PART 2
VACANCIES IN OFFICE

1-12-201. Vacancies in office of United States senator.

1-12-202. Vacancies in office of representative in congress.

1-12-203. Vacancies in general assembly.

1-12-204. Vacancies in state and district offices.

1-12-205. Vacancies in county offices.

1-12-206. Vacancies in the office of county commissioner - county commissioner vacancy election.

1-12-207. Vacancies on nonpartisan boards.

1-12-208. Unexpired terms less than ninety days.

1-12-209. Terms of persons filling vacancies.

1-12-210. Certification of appointment.

PART 1

RECALL FROM OFFICE

Cross references: For recall of state officers, including filling post-resignation vacancies, see also art. XXI, Colo. Const.; for recall of municipal officers, see part 5 of article 4 of title 31.

1-12-100.5. Definitions.

As used in this part 1, and for purposes of article XXI of the state constitution, unless the context otherwise requires:

(1) "Approved as to form" means that the appropriate designated election official has reviewed the blank form of a petition and has approved the form as meeting the standards set forth in this article.

(2) "Circulated" means presented to an elector for the collection of a signature and other information required by this article.

(2.5) "Circulator" means a person who presents to other persons for possible signature a petition for recall as described in this article.

(3) "Committee" means the committee of signers described in section 1-12-108 (2).

(3.5) "Date for holding the election" means the first day on which recall mail ballots are to be made available to eligible electors at the county clerk and recorder's office or other suitable location pursuant to the election plan approved under section 1-12-114 (1)(a).

(4) "Elected officer" means any person elected to public office or appointed to fill a vacancy in an elected position of public office.

(5) "Designated election official" means the secretary of state or a county clerk and recorder.

(6) "Fails to qualify" means not satisfying the constitutional or statutory qualifications for office, whether by reason of age, citizenship, residency, or sufficient number of valid nomination petition signatures required by section 1-12-117 (3).

(7) "Fully adjudicated" means to have been decided by a final judgment by a court of competent jurisdiction and from which there can be no appeal.

(7.5) "General election" means an election held on the Tuesday succeeding the first Monday of November in an even-numbered year or an election held on the first Tuesday of November in an odd-numbered year.

(8) "Recall petition entity" means a person, as defined in section 2-4-401, C.R.S., that provides compensation to a circulator to circulate a recall petition.

Source: L. 2012: Entire section added, (HB 12-1293), ch. 236, p. 1038, § 1, effective May 29. **L. 2014:** IP amended and (2.5), (3.5), (5), (6), (7), and (8) added, (SB 14-158), ch. 170, p. 617, § 2, effective May 9. **L. 2019:** (7.5) added, (HB 19-1278), ch. 326, p. 3034, § 45, effective August 2. **L. 2021:** (3.5) and (5) amended, (SB 21-250), ch. 282, p. 1654, § 52, effective June 21.

Cross references: (1) For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-12-101. Elected officers subject to recall.

Every elected officer of this state or any political subdivision thereof is subject to recall from office at any time by the eligible electors entitled to vote for a successor to the incumbent. The recall of any state officer shall be governed by the recall of state officers procedure set forth in this article.

Source: L. 92: Entire article R&RE, p. 793, § 15, effective January 1, 1993.

1-12-102. Limitations.

(1) No recall petition may be circulated or filed against any elected officer until the officer has actually held office for at least six months following the last election, or six months following the assumption of office by an appointed official; except that a recall petition may be filed against any member of the general assembly at any time after the fifth day following the convening and organizing of the general assembly after the election or appointment of the official sought to be recalled.

(2) After one recall petition and election, no further petition may be filed against the same state or county officer during the term for which the officer was elected, unless the petitioners signing the petition equal fifty percent of the votes cast at the last preceding general election for all of the candidates for the office held by the officer.

(3) After one recall petition and election, no further petition may be filed against the same school board officer during the term for which the officer was elected, unless the petitioners signing the petition equal one and one-half times the number of signatures required on the first petition filed against the same officer.

(4) No recall petition may be circulated or filed against any elected officer whose office is up for election within six months.

Source: L. 92: Entire article R&RE, p. 793, § 15, effective January 1, 1993. **L. 97:** (4) added, p. 1061, § 1, effective May 27. **L. 2021:** (1), (3), and (4) amended, (SB 21-250), ch. 282, p. 1654, § 53, effective June 21.

Cross references: For the power of the county central committee to fill vacancies, see § 1-3-104.

1-12-103. Petition for recall - statement of grounds.

Eligible electors of the state or a political subdivision may initiate the recall of an elected official by signing a petition that demands the election of a successor to the officer named in the petition. The petition must contain a general statement, consisting of two hundred words or less, stating the ground or grounds on which the recall is sought. The general statement shall not include any profane or false statements. The statement is for the information of the electors who

are the sole and exclusive judges of the legality, reasonableness, and sufficiency of the ground or grounds assigned for the recall. The ground or grounds are not open to review.

Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1038, § 2, effective May 29. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1655, § 54, effective June 21.

1-12-104. Signatures required for state and county officers.

(1) A petition to recall a state or county officer shall be signed by eligible electors equal in number to twenty-five percent of the entire vote cast at the last preceding general election for all candidates for the office which the incumbent sought to be recalled occupies.

(2) If more than one person is required by law to be elected to fill the office to which the person sought to be recalled is an incumbent, then the petition shall be signed by eligible electors entitled to vote for a successor to the incumbent sought to be recalled equal in number to twenty-five percent of the entire vote cast at the last preceding general election for all candidates for the office to which the incumbent sought to be recalled was elected, the entire vote being divided by the number of all officers elected to the office at the last preceding general election.

Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993. **L. 97:** (1) amended, p. 1061, § 2, effective May 27.

1-12-105. Signatures required for school district officers.

A petition to recall a school district officer shall be signed by eligible electors of the school district equal in number to at least forty percent of the entire vote cast at the last preceding election for all candidates for the school district director position occupied by the incumbent sought to be recalled. If no such election was held, the petition shall be signed by eligible electors of the school district equal in number to at least ten percent of those electors residing within the school district on the date that the petition is approved as to form under section 1-12-108 (4). In no case shall the number required for recall be less than ten percent of eligible electors qualified to vote in the most recent biennial school election; except that no more than fifteen thousand signatures is required.

Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993. **L. 97:** Entire section amended, p. 1061, § 3, effective May 27. **L. 2012:** Entire section amended, (HB 12-

1293), ch. 236, p. 1039, § 3, effective May 29. **L. 2018:** Entire section amended, (SB 18-233), ch. 262, p. 1617, § 39, effective May 29.

Cross references: For the determination of existence of vacancy in county offices, see § 30-10-105.

1-12-106. Signatures required for nonpartisan officers. (Repealed)

Source: L. 92: Entire article R&RE, p. 794, § 15, effective January 1, 1993. **L. 97:** Entire section amended, p. 1062, § 4, effective May 27. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1039, § 4, effective May 29. **L. 2021:** Entire section repealed, (SB 21-250), ch. 282, p. 1672, § 83, effective June 21.

1-12-107. Designated election officials.

(1) For state recall elections, the petition shall be filed with the secretary of state who shall review and approve as to form the petition for recall as provided in section 1-12-108 (4), certify the sufficiency of the petition, and notify the governor, who shall set the date for the election. The election must be conducted by the appropriate county clerk and recorders in the manner provided in this title 1 for state elections.

(2) For county recall elections, the county clerk and recorder shall review and approve as to form the petition as provided in section 1-12-108 (4). The petition shall be filed with the county clerk and recorder who shall certify the sufficiency of the petition and call and conduct the election.

(3) For school board recall elections, the county clerk and recorder shall review and approve as to form the petition as provided in section 1-12-108 (4). The petition shall be filed with the county clerk and recorder of the county in which the school district's administrative offices are located. The clerk and recorder of the county shall certify the sufficiency of the petition and call and conduct the election.

(4) Repealed.

(5) No designated election official may, by rule, regulation, order, or any other official act, suspend or avoid the requirement that recall elections be held as mail ballot elections.

Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1039, § 5, effective May 29. **L. 2014:** (5) added, (SB 14-158), ch. 170, p. 618, § 3, effective May 9. **L. 2021:** (1) amended and (4) repealed, (SB 21-250), ch. 282, p. 1655, § 55, effective June 21.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

1-12-108. Petition requirements - approval as to form - determination of sufficiency - protest - offenses.

(1) The petition shall be prepared and circulated pursuant to this part 1.

(1.5) No signature shall be counted that was placed on a petition prior to approval as to form of the petition by the designated election official pursuant to subsection (4) of this section or more than sixty days after the designated election official's approval as to form of the petition.

(2) (a) The petition for the recall of an elected official may consist of one or more sheets, to be fastened together in the form of one petition section, but each side of the sheet that contains signatures of eligible electors shall contain the same heading and each petition section shall contain one sworn affidavit of the circulator. No petition shall contain the name of more than one person proposed to be recalled from office.

(b) The petition for recall may be circulated and signed in sections, and each section must contain a full and accurate copy of the warning as required by subsection (3)(b) of this section, the title in subsection (3)(c) of this section, the general statement as described in section 1-12-103, the cost estimate required by subsection (3.5) of this section, the statement of the incumbent if provided pursuant to subsection (4)(a)(II) of this section, and appropriate columns or spaces for the information required in subsection (5)(b) of this section. Each petition section must designate, by name and address, a committee of up to three persons that represents the signers in all matters affecting the petition.

(3) (a) A petition shall not be certified as sufficient unless it contains the required number of names of eligible electors. A designated election official shall not count the names of electors whose names appeared on a previous petition deemed sufficient for the recall of the same person and office.

(b) At the top of each side of each sheet that contains signatures of eligible electors shall be printed, in bold-faced type, the following:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign this petition with any name other than one's own or to knowingly sign one's name more than once for the same measure or to knowingly sign the petition when not a registered elector.

Do not sign this petition unless you are an eligible elector. To be an eligible elector you must be registered to vote and eligible to vote in (name of political subdivision) elections.

Do not sign this petition unless you have read or have had read to you the proposed recall measure in its entirety and understand its meaning.

(c) Directly following the warning in paragraph (b) of this subsection (3) shall be printed in bold-faced type the following:

Petition to recall (name of person sought to be recalled) from the office of (title of office).

(3.5) Prior to submitting a printer's proof of a petition for approval as to form, the committee shall notify the designated election official of the committee's intent to file a petition for approval as to form. Within three business days of receiving the notice, the designated election official shall provide the committee with an estimate of the costs of conducting the recall election. The cost estimate must be included in each petition section circulated.

(4) (a) (I) A petition shall not be circulated until the first printer's proof of the petition has been submitted to the designated election official and it has been approved as to form as meeting the requirements of this subsection (4). All sections of the petition must be prenumbered serially. The official with whom the petitions are to be filed pursuant to section 1-12-107 shall approve or disapprove a petition as to form by the close of the seventh business day following submission of the printer's proof of the proposed petition. On the day the designated election official approves the format, the designated election official shall mail or electronically submit written notice of the action taken to the committee and to the person whom the petition seeks to recall.

(II) Immediately upon receiving a printer's proof of a proposed petition for approval as to form, the designated election official shall notify the incumbent and provide the incumbent with a copy of the printer's proof. Within three business days of the notification, the incumbent may submit to the designated election official the statement described in section 1-12-112 (1). If the incumbent timely submits the statement, the designated election official shall disapprove the petition as to form and shall provide the committee with a copy of the incumbent's statement with the notice of disapproval. The committee may resubmit the printer's proof of the proposed petition, which must include the incumbent's statement, for approval.

(b) If the form of the petition is not approved as to form, the designated election official shall provide specific reasons for the disapproval.

(c) Nothing in this section limits the ability of the committee to correct a petition as to form in accordance with the specific reasons set forth pursuant to paragraph (b) of this subsection (4) and to submit the corrected petition for review and approval or disapproval in the same manner as provided in this part 1 for an original submission.

(d) The designated election official shall notify the committee at the time a petition format is approved that the committee must register an issue committee pursuant to section 1-45-108 (3.3) if two hundred or more petition sections are printed or accepted in connection with circulation of the petition.

(5) (a) Every state petition shall be signed only by eligible electors.

(b) Every petition for a county or school district officer shall be signed only by active registered electors who are not required to submit a copy of their identification with their mail ballot under section 1-7.5-107 (3.5).

(c) Unless physically unable, all electors shall sign their own signature and shall print their names, respective residence addresses, including the street number and name, the city or town, and the date of signature. Each signature on a petition must be made, to the extent possible, using a pen. If, while verifying a signer's information against the registration records in accordance with subsection (8) of this section, the designated election official finds that the signer provided their mailing address rather than their residence address, the designated election official may accept the signature line as valid if the designated election official is able to locate the signer's record in the statewide voter registration database and determines that the signer was eligible to sign the petition.

(d) Any person, except a circulator, may assist an elector who is physically unable to sign the petition in completing the information on the petition as required by law. On the petition immediately following the name of the elector receiving assistance, the person providing assistance shall sign, provide the person's address, and state that the assistance was given to the elector.

(6) (a) No person may circulate a recall petition unless the person is a citizen of the United States and at least eighteen years of age.

(b) A circulator who is not paid for circulating a recall petition shall display an identification badge that includes the words "VOLUNTEER CIRCULATOR" in bold-faced type that is clearly legible.

(c) A circulator who is paid for circulating a recall petition shall display an identification badge that includes the words "PAID CIRCULATOR" in bold-faced type that is clearly legible and the name and telephone number of the individual employing the circulator.

(d) The secretary of state shall make available to recall petition circulators the training developed for petition circulators under section 1-40-112 (3). The recall committee shall inform paid and volunteer circulators of the availability of this training program as one manner of complying with the requirement in the circulator's affidavit that a circulator read and understand the laws pertaining to petition circulation.

(e) To each petition section must be attached a signed, notarized, and dated affidavit executed by the person who circulated the petition section that must include the following:

(I) The circulator's printed name, the address at which the circulator resides, including the street name and number, the city or town, the county, and the date the circulator signed the affidavit;

(II) That the circulator has read and understands the laws governing the circulation of recall petitions;

(III) That the circulator was a citizen of the United States and at least eighteen years of age at the time the section of the petition was circulated;

(IV) That the circulator circulated the section of the petition;

(V) That each signature appearing on the petition was made in the circulator's presence;

(VI) That each signature on the petition is, to the best of the circulator's knowledge, the signature of the person whose name it purports to be and was made by someone eligible to sign the recall petition;

(VII) That the circulator has not paid or will not in the future pay and that the circulator believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to sign the petition;

(VIII) That the circulator understands that the circulator can be prosecuted for violating the laws governing the circulation of recall petitions; and

(IX) That the circulator understands that failing to make himself or herself available to be deposed and to provide testimony in the event of a protest shall invalidate the petition section if it is challenged on the grounds of circulator fraud.

(f) A notary public shall not notarize an affidavit required by subsection (6)(e) of this section unless:

(I) The circulator is in the physical presence of the notary public; and

(II) The circulator has dated the affidavit and fully and accurately completed all of the personal information on the affidavit.

(g) As part of any court proceeding or hearing conducted by the designated election official related to a protest of all or a part of a petition section, the circulator of such petition section may be required by the designated election official, hearing officer, or court to make himself or herself available to be deposed and to testify in person, by telephone, or by any other means permitted under the Colorado rules of civil procedure. Except as provided in subsection (6)(h) of this section, the petition section that is the subject of the protest is invalid if a circulator fails to comply with the requirements set forth in this subsection (6)(g). This section only applies to a protest that includes an allegation of circulator fraud that is pled with particularity regarding:

(I) Forgery of a registered elector's signature;

(II) Circulation of a petition section, in whole or part, by anyone other than the person who signed the affidavit attached to the petition section;

(III) Use of a false circulator name or address in the affidavit; or

(IV) Payment of money or other things of value to any person for the purpose of inducing the person to sign the petition.

(h) If a designated election official, hearing officer, or court finds that the circulator of a petition section is unable to be deposed or to testify at trial or a hearing because the circulator has died, become mentally incompetent, or become medically incapacitated and physically unable to testify, the provisions of subsection (6)(g) of this section do not apply to invalidate a petition section circulated by the circulator.

(i) The recall committee shall maintain a list of the names, addresses, and section numbers circulated for all circulators of the petition and the names and section numbers of the notaries public who notarized the petition sections. A copy of the list must be filed with the designated election official along with the petition. If a copy of the list is not filed, the designated election official shall prepare the list and charge the members of the recall committee a fee. The fee must be set at an amount that covers the cost of the preparation of the list. Once filed or prepared by the designated election official, the list is a public record for the purposes of article 72 of title 24.

(j) The designated election official shall not accept for filing any section of a petition that does not have attached to it the notarized affidavit required by this section. Any signature added to a section of a petition after the notarized affidavit has been executed is invalid.

(7) (Deleted by amendment, L. 97, p. 1062, § 5, effective May 27, 1997.)

(7.5) The petition may be filed at any time during the sixty-day period after the designated election official's approval as to form of the petition as specified in this section. The committee shall file all sections of a petition simultaneously, and any section of a petition submitted after the petition is filed is invalid and has no force or effect.

(8) (a) Promptly after the petition has been filed, the designated election official for the political subdivision shall review all petition information and verify the information against the registration records. The designated election official shall verify signatures and provide an opportunity to cure in the same manner as section 1-4-908 (1.5). The secretary of state shall establish guidelines for verifying petition entries. Within twenty-four hours after the petition is delivered, the designated election official shall notify the incumbent by mail or email of the delivery. Following verification of the petition by the designated election official, the designated election official shall make a copy of the petition available to the incumbent sought to be recalled. Nothing in this section prescribes the form in which the petition must be maintained by the designated election official or prevents a designated election official from collecting fees for copies of the petition in accordance with the "Colorado Open Records Act", part 2 of article 72 of title 24.

(b) Any disassembly of a section of the petition prior to filing that has the effect of separating the affidavit from the signatures renders that section of the petition invalid and of no force and effect.

(c) (I) After review, and no later than twenty-eight days after the initial filing of the petition, the designated election official shall notify the committee and the incumbent of the number of valid signatures and whether the petition appears to be sufficient or insufficient.

(II) Repealed.

(II.5) During the review of any recall petition, the designated election official shall notify the committee of any errors and insufficiencies regarding circulator affidavits. Upon the receipt of such a notification, the committee has five calendar days from the date of receipt of the notice to cure the errors and insufficiencies described in the notice. To cure a circulator affidavit, the committee must provide the designated election official with a new circulator affidavit that corrects the errors of the previously submitted affidavit.

(III) If the petition is verified as insufficient, the designated election official shall provide the specific reasons for the determination to the committee by mail or email. The determination may be appealed within five days by the committee in the manner provided in section 1-1-113 to the

district court in the county in which the petition was filed. No person other than those on the committee has standing to appeal a determination that the petition is insufficient.

(9) (a) (I) A recall petition that has been verified by the designated election official is sufficient unless a protest in writing under oath is filed in the office of the designated election official by an eligible elector within fifteen days after the designated election official has determined the sufficiency of the petition under subsection (8)(c) of this section.

(II) The protest must set forth specific grounds for the protest. Grounds include failure of any portion of a petition or circulator affidavit to meet the requirements of this article 12 or any conduct on the part of petition circulators that substantially misleads persons signing the petition. The designated election official shall mail and email a copy of the protest to the committee, together with a notice fixing a time for hearing the protest not less than five nor more than ten days after the notice is mailed and emailed.

(III) Every hearing shall be heard before the designated election official with whom the protest is filed or a designee of the designated election official appointed as the hearing officer. The testimony in every hearing must be under oath. The hearing must be summary and not subject to delay and must be concluded within thirty days after the protest is filed with the designated election official, and the result shall be certified to the committee.

(b) The party filing a protest has the burden of sustaining the protest by a preponderance of the evidence. The decision upon matters of substance is open to review, if application is made within five days, in the manner provided in section 1-1-113, to the district court in the county in which the petition was filed. The remedy in all cases must be summary, and the decision of any court having jurisdiction is final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any judicial proceeding as provided in section 1-1-113.

(c) Repealed.

(d) (I) At any time before the designated election official submits a certificate of sufficiency pursuant to section 1-12-111, any signer may request that his or her name be stricken from the petition by filing with the designated election official a written request that his or her signature be stricken. If the request is delivered to the designated election official through the United States mail, it is deemed delivered to the designated election official on the date shown by the cancellation mark on the envelope containing the request received by the member of the committee or the designated election official. If the request is submitted to the designated election official by email, it is deemed delivered on the date and time it is shown to be sent. If the request is delivered to the designated election official in any other manner, it is deemed delivered to the designated election official on the date of delivery and stamped receipt by the designated election official.

(II) If a written request is delivered before the designated election official notifies the committee of the number of valid signatures on a petition in accordance with subsection (8)(c)(I) of this section, the election official shall strike the signature of the signer who filed the request. If the written request is delivered before the petition is filed, the election official shall strike the signature of the signer who filed the request promptly upon the filing of the petition.

(III) If a written request is delivered after the designated election official notifies the committee of the number of valid signatures but before the date a protest is filed in accordance with subsection (9)(a) of this section or the date the designated election official submits the certificate of sufficiency in accordance with section 1-12-111, the designated election official shall strike the signature of the signer who filed the request. If striking a signature in accordance with this subsection (9)(d)(III) changes the determination of sufficiency, the designated election official shall notify the committee and the incumbent that the petition is verified insufficient as of the date the signature is struck. The determination of insufficiency may be appealed in accordance with subsection (8)(c)(III) of this section.

(IV) If a written request is delivered after the date a protest is filed in accordance with subsection (9)(a) of this section, the designated election official shall strike the signature as part of the protest proceedings.

(V) If a signer submits a written request to strike the signer's signature from the petition to any member of the committee at any time before the designated election official submits the certificate of sufficiency pursuant to section 1-12-111, the member of the committee shall immediately provide the request to the designated election official. The request is deemed delivered to the designated election official on the day that the member of the committee received it. A member of the committee who fails to comply with this subsection (9)(d)(V) commits a misdemeanor punishable in accordance with section 1-13-111.

(10) Any person who willfully destroys, defaces, mutilates, or suppresses a petition, or who willfully neglects to file or delays delivery of a petition, or who conceals or removes a petition from the possession of the person authorized by law to have custody of it, or who aids, counsels, procures, or assists any person in doing any of the above acts upon conviction shall be punished as provided in section 1-13-111.

Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993. **L. 93:** Entire section amended, p. 1435, § 119, effective July 1. **L. 95:** Entire section amended, p. 845, § 72, effective July 1. **L. 97:** (4), (7), (8)(c), (9)(a), and (9)(c) amended and (7.5) added, p. 1062, § 5, effective May 27. **L. 99:** (9)(c) amended and (9)(d) added, p. 95, § 1, effective September 1. **L. 2001:** (2)(a) amended, p. 1004, § 14, effective August 8. **L. 2002:** (7.5) amended, p. 1640, § 32, effective June 7. **L. 2007:** (6)(a) and (6)(b) amended, p. 1981, § 32, effective August 3. **L. 2012:** (1), (2), (3)(a), (3)(b), (4), (5)(c), (6)(b), (6)(c), (7.5), (8), (9)(a), (9)(c), and (9)(d)(I) amended

and (1.5) added, (HB 12-1293), ch. 236, p. 1040, § 6, effective May 29. **L. 2014:** (6)(b) and (8)(c)(II) amended, (8)(c)(II.5) added, and (9)(c) repealed, (SB 14-158), ch. 170, p. 618, § 4, effective May 9. **L. 2018:** (9)(d) amended, (SB 18-233), ch. 262, p. 1617, § 40, effective May 29. **L. 2019:** (6)(a), (8)(a), and (8)(c)(II.5) amended, (HB 19-1278), ch. 326, p. 3034, § 46, effective August 2. **L. 2021:** (2)(b), (3)(a), (4)(a), (5), (6), (8)(a), (8)(c)(I), (8)(c)(III), (9)(a), (9)(b), and (9)(d) amended, (3.5) and (4)(d) added, and (8)(c)(II) repealed, (SB 21-250), ch. 282, p. 1655, § 56, effective June 21; (10) amended, (SB 21-271), ch. 462, p. 3122, § 1, effective March 1, 2022. **L. 2026:** (5)(c) amended, (HB 26-1113), ch. 267, p. 1513, § 56, effective June 1.

Cross references: (1) For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

(2) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-12-108.5. Applicability of laws pertaining to initiative and referendum petitions and circulators. (Repealed)

Source: L. 2014: Entire section added, (SB 14-158), ch. 170, p. 619, § 5, effective May 9. **L. 2021:** Entire section repealed, (SB 21-250), ch. 282, p. 1672, § 83, effective June 21.

1-12-109. Resignation.

If an officer whose recall is sought offers a resignation, it shall be accepted and the vacancy caused by the resignation shall be filled as provided by law. The person appointed to fill the vacancy caused by the resignation shall hold the office only until the person elected at the recall election is qualified; except that, if the recall election is canceled in accordance with section 1-12-110 (1), the person appointed to fill the vacancy shall hold the office until it is filled at the next regularly scheduled election for that office.

Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1044, § 7, effective May 29.

1-12-110. Call for election - cancellation of recall election.

(1) If the officer whose recall is sought does not resign within five days after the sufficiency of the recall petition has been certified by the designated election official and the time for protest has passed, the designated election official shall call the election and set the election date as required by section 1-12-111; except that, if the officer whose recall is sought resigns at any time prior to the deadline to submit a petition as a successor candidate in accordance with section 1-12-117, the recall election shall be canceled.

(2) If the officer whose recall is sought resigns at any time after the deadline to submit a petition as a successor candidate, the recall election shall be called and held notwithstanding the resignation.

Source: L. 92: Entire article R&RE, p. 795, § 15, effective January 1, 1993. **L. 95:** (1) amended, p. 849, § 73, effective July 1. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1044, § 8, effective May 29.

1-12-111. Setting date of recall election.

(1) If the recall petition is held to be sufficient under section 1-12-108 (8)(c) and after the time for protest has passed and any such protest has been fully adjudicated, the designated election official shall wait five days to see if the incumbent resigns. If five days have passed and the incumbent has not resigned, the designated election official shall submit the certificate of sufficiency to the governor, or create the certificate and keep a copy, as appropriate, on the sixth day after the time for protest has passed and any such protest has been fully adjudicated. The designated election official shall post the certificate on his or her official website by twelve noon on the day after the day on which he or she submits or creates the certificate of sufficiency.

(2) After receiving or creating the certificate of sufficiency, the governor or designated election official shall, within twenty-four hours, set a date for holding the election, which date shall be not less than thirty nor more than sixty days after the certificate of sufficiency has been submitted to the governor or created; except that, if a general election is to be held within ninety days after the certificate of sufficiency has been submitted to the governor, the recall election must be held as a part of that election. For a county or school district election, if a general election is to be held within one hundred twenty days after the certificate of sufficiency has been created, the recall election must be held as part of that election. Regardless of any other requirement found in this section, a county or school district recall election may not be held within sixty days after the date of a primary, general, or congressional vacancy election.

(3) If, during the same fifteen-day period, the designated election official of a county or school district office approves recall petitions for circulation against more than one elected

official in the same political subdivision, the designated election official may delay setting the date for holding the election until the sufficiency of all recall petitions for that political subdivision are finally determined and adjudicated.

Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993. **L. 97:** Entire section amended, p. 1063, § 6, effective May 27. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1044, § 9, effective May 29. **L. 2014:** Entire section amended, (SB 14-158), ch. 170, p. 619, § 6, effective May 9. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1662, § 57, effective June 21. **L. 2023:** (2) amended, (SB 23-276), ch. 399, p. 2392, § 42, effective June 6.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

1-12-111.5. Nonpartisan recall election plan. (Repealed)

Source: L. 2012: Entire section added, (HB 12-1293), ch. 236, p. 1045, § 10, effective May 29. **L. 2019:** Entire section amended, (HB 19-1278), ch. 326, p. 3035, § 47, effective August 2. **L. 2021:** Entire section repealed, (SB 21-250), ch. 282, p. 1672, § 83, effective June 21.

1-12-111.7. Recall election notice - publication.

(1) For a recall election of a state officer, the governor and the secretary of state shall publish notice of the recall election on their websites.

(2) For a recall election for an officer other than a state officer, the designated election official shall publish notice of the recall election on its website or in a newspaper of general circulation in accordance with section 1-5-205.

Source: L. 2012: Entire section added, (HB 12-1293), ch. 236, p. 1045, § 11, effective May 29. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1663, § 58, effective June 21.

1-12-112. Ballots - statement included.

(1) In addition to all other requirements of law, the official ballot must contain the statement described in section 1-12-103 stating the grounds for demanding the officer's recall. The officer sought to be recalled may submit to the designated election official a statement of three hundred words or fewer justifying the officer's course of conduct. The officer shall not include any profane or false statements in the statement of justification. The officer shall submit the statement no later than ten days after the statement of sufficiency has been submitted or created. The official ballot must contain the statement of justification if submitted pursuant to this subsection (1).

(2) Ballots for the election of a successor to the officer sought to be recalled must contain the candidates' names, which must be placed on the ballot by lot.

(3) The official ballot for the election of a successor to the officer sought to be recalled shall contain a blank space in which the elector may write the name of a write-in candidate who has timely filed an affidavit of intent in accordance with section 1-12-115.

Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993. **L. 97:** (1) amended, p. 1063, § 7, effective May 27. **L. 2012:** (1) amended and (3) added, (HB 12-1293), ch. 236, p. 1045, § 12, effective May 29. **L. 2021:** (1) and (2) amended, (SB 21-250), ch. 282, p. 1663, § 59, effective June 21.

1-12-113. Conduct and timing of recall election.

(1) Except as modified by this article, the recall election and election of a successor shall be conducted according to articles 1 to 13 of this title.

(2) Except as otherwise provided in this part 1, for a recall election, all events in the uniform election code that are to be completed by the secretary of state, designated election official, or coordinated election official on or before the forty-fifth day prior to the election must be completed no later than the thirty-fifth day prior to the recall election.

Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1045, § 13, effective May 29. **L. 2021:** (2) amended, (SB 21-250), ch. 282, p. 1663, § 60, effective June 21.

1-12-114. Mail ballots - plan required - voter service and polling centers - number required - definition.

(1) (a) Notwithstanding section 1-7.5-105, as soon as practicable after the date that the designated election official certifies the recall question to the ballot under section 1-12-111, any county clerk and recorder administering a recall election shall submit to the secretary of state, for approval within three business days after receipt, a proposed election plan that includes all information required by section 1-7.5-105. If the secretary of state does not provide written notice of approval or disapproval of the plan within three business days, the plan is deemed approved.

(b) The secretary of state may disapprove an election plan submitted under subsection (1)(a) of this section using only the same standards used to evaluate and approve of election plans transmitted under section 1-7.5-105.

(2) Notwithstanding any provision of this code:

(a) The designated election official conducting the recall election shall designate the office of the county clerk and recorder or other suitable location to provide a mail ballot or replacement ballot to a registered elector requesting the ballot at the office of the county clerk and recorder or other designated location from the twenty-second day prior to the final day of voting in such election through that final day of voting; and

(b) Not earlier than the twenty-ninth day or later than the twenty-fifth day before the election, the designated election official shall mail ballots to all active registered electors.

(3) (a) There must be one voter service and polling center for each thirty thousand active registered electors in the district of the incumbent sought to be recalled; except that any such district must have at least one voter service and polling center, and each district that spans more than one county must operate one voter service and polling center within the boundaries of each county. Each voter service and polling center must be open from the eighth day prior to the final day of voting in the recall election through the final day. Each voter service and polling center required by this section must be open for eight hours Monday through Friday, four hours on Saturday, and need not be open on Sunday. On the final day of voting, each voter service and polling center required by this section must be open from 7 a.m. to 7 p.m.

(b) When a recall election is combined with a general election in even years pursuant to article XXI of the state constitution and section 1-12-111, the number and days of operation of voter service and polling centers and the manner of voting for the recall as part of said general election are the same as those prescribed under section 1-5-102.9. When a recall election is combined with a general election in odd years pursuant to article XXI of the state constitution and section 1-12-111, the number and days of operation of voter service and polling centers and the manner of voting for the recall as part of said general election are the same as those prescribed under section 1-7.5-107.

(4) As used in this section, and for purposes of article XXI of the state constitution, "part of said general election" means the inclusion of the questions of both the recall of an incumbent and the election of the incumbent's successor on mail ballots that are sent by mail, available at voter service and polling centers, or otherwise delivered to an elector as permitted by law, from the date for holding the election through the last day of voting in a general election. Notwithstanding this definition, to maximize participation of voters covered by the federal "Uniformed and Overseas Citizens Absentee Voting Act", 52 U.S.C. sec. 20301 et seq., all candidate races, ballot issues, and ballot questions that a covered voter is eligible to vote on must be included on the ballots required to be sent pursuant to that act, and recall-related ballot questions must be sent separately on ballots that adhere to the deadlines set forth in this section.

Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993. **L. 95:** Entire section amended, p. 849, § 74, effective July 1. **L. 2007:** Entire section amended, p. 1796, § 64, effective June 1. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1046, § 14, effective May 29. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10. **L. 2014:** Entire section RC&RE, (SB 14-158), ch. 170, p. 619, § 7, effective May 9. **L. 2016:** (4) amended, (SB 16-142), ch. 173, p. 587, § 65, effective May 18. **L. 2019:** (1) and (2)(b) amended, (HB 19-1278), ch. 326, p. 3035, § 48, effective August 2. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1663, § 61, effective June 21. **L. 2026:** (2)(b) amended, (HB 26-1113), ch. 267, p. 1513, § 57, effective June 1.

Cross references: (1) In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

(3) For the short title ("Colorado Votes Act") in HB 19-1278, see section 1 of chapter 326, Session Laws of Colorado 2019.

1-12-115. Write-in candidates.

No write-in vote for any office shall be counted unless an affidavit of intent has been filed indicating that the person for whom the write-in vote is made desires the office and is legally qualified to assume the duties of the office if elected. The affidavit of intent must be filed with the designated election official no later than twenty-five calendar days before the date for holding the election.

Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993. **L. 95:** Entire section amended, p. 849, § 75, effective July 1. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1046, § 15, effective May 29. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1665, § 62, effective June 21.

1-12-116. Sufficiency of the recall.

If a majority of those voting on the question of the recall of any incumbent from office vote "no", the incumbent continues in office; if a majority vote "yes", the incumbent is removed from office upon the qualification of the successor. If an even number of electors vote "no" and "yes" on the question of the recall of the incumbent from office, the incumbent continues in office.

Source: L. 92: Entire article R&RE, p. 796, § 15, effective January 1, 1993. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1665, § 63, effective June 21.

1-12-117. Nomination of successor - ballot certification.

(1) For partisan elections, a candidate to succeed the officer sought to be recalled must meet the qualifications of a party candidate or an unaffiliated candidate as provided in part 8 of article 4 of this title 1 and must be nominated by a political party petition or an unaffiliated petition as provided in part 9 of article 4 of this title 1. Nomination petitions may be circulated beginning the first date on which a protest may be filed and must be filed no later than fifteen calendar days prior to the date for holding the election as provided in section 1-12-111 for state recall elections and twenty-five calendar days prior to the date for holding the election as provided in section 1-12-111 for other recall elections. If the election is to be held with a general election, nomination petitions must be filed no later than five days prior to the date to certify ballot content for the general election.

(2) For nonpartisan elections, nomination petitions for candidates whose names are to appear on the ballot may be circulated beginning the first date on which a protest may be filed and must be filed no later than twenty-five calendar days prior to the date for holding the election as provided in section 1-12-111. If the election is to be held with a general election, nomination petitions must be filed no later than five days prior to the date to certify ballot content for the general election.

(3) (a) Every nomination petition must be signed by the number of eligible electors required for the office in part 8 of article 4 of this title 1 or as otherwise provided by law.

(b) (I) The designated election official shall verify successor candidate petitions within five days after the deadline to file such petitions as set forth in subsections (1) and (2) of this section.

(II) The designated election official shall certify the ballot content as soon as possible, but not later than two business days after the date upon which the verification of successor candidate petitions is required pursuant to subsection (3)(b)(I) of this section. If the recall election will be held as part of a general election, the designated election official shall certify the ballot content no later than the date all other content for the general election is required to be certified.

(4) The officer who was sought to be recalled is not eligible as a candidate in the election to fill any vacancy resulting from the recall election.

(5) For any special district recall election conducted under this section, the designated election official shall verify successor candidate self-nomination forms within two days of receiving the form. A successor candidate who files a self-nomination form that is deficient must be notified of the deficiency by the designated election official and may resubmit a corrected form no later than the deadline to certify the ballot content as set forth in subsection (3) of this section.

Source: L. 92: Entire article R&RE, p. 797, § 15, effective January 1, 1993. **L. 94:** Entire section amended, p. 1179, § 71, effective July 1. **L. 95:** Entire section amended, pp. 849, 862, §§ 76, 123, effective July 1. **L. 97:** Entire section amended, p. 1064, § 8, effective May 27. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236 p. 1046, § 16, effective May 29. **L. 2014:** (1), (2), and (3) amended, (SB 14-158), ch. 170, p. 621, § 8, effective May 9. **L. 2021:** Entire section amended, (SB 21-250), ch. 282, p. 1665, § 64, effective June 21. **L. 2024:** (1) amended, (SB 24-210), ch. 468, p. 3258, § 46, effective June 6.

Editor's note: Amendments to this section by sections 76 and 123 of House Bill 95-1241 were harmonized.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

1-12-118. Election of successor.

(1) The election of a successor is held at the same time as the recall election. The names of those persons nominated as candidates to succeed the person sought to be recalled, except write-

in candidates, shall appear on the ballot. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for office.

(2) (Deleted by amendment, L. 95, p. 850, § 77, effective July 1, 1995.)

Source: L. 92: Entire article R&RE, p. 797, § 15, effective January 1, 1993. **L. 95:** Entire section amended, p. 850, § 77, effective July 1. **L. 2012:** (1) amended, (HB 12-1293), ch. 236, p. 1047, § 17, effective May 29. **L. 2014:** (1) amended, (SB 14-158), ch. 170, p. 621, § 9, effective May 9.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

1-12-118.5. Postelection protest of successor candidate qualification - procedure.

(1) (a) Within seventy-two hours after certification of results of a recall election conducted under this article, any elector who is registered in a political subdivision represented by an official subject to recall may file a protest using the procedures in section 1-1-113 alleging that the successor candidate who received the highest number of votes fails to qualify for the office. The protest must be filed in the district court in the county in which the petition determination was issued.

(b) Any protest filed under paragraph (a) of this subsection (1) takes precedence over all other nonemergency civil matters before the district court.

(2) If the court determines, pursuant to a protest filed under subsection (1) of this section, that the successor candidate against whom the protest is made fails to qualify, that individual may not take office. In such case, the office is deemed vacant and shall be filled according to law, including section 2 (3) of article V of the state constitution and part 2 of this article. The officer recalled in the recall election at which the unqualified successor was elected is ineligible to fill the vacancy.

Source: L. 2014: Entire section added, (SB 14-158), ch. 170, p. 622, § 10, effective May 9.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

1-12-119. Canvass of votes - notification of results.

(1) For the recall of a partisan officer, the canvass board shall be composed of one representative from each major political party and the county clerk and recorder.

(2) For the recall of a nonpartisan officer, the canvass board shall be composed of the designated election official, one member of the governing body, and one eligible elector of the political subdivision.

(3) The canvass board shall complete and certify the abstract of votes in accordance with article 10 of this title.

(4) If the majority of those voting on the recall question voted "yes", upon receipt of the certified abstract of votes cast, the designated election official shall issue a certificate of election to the successor candidate who received the highest number of votes. A copy of the certificate shall be transmitted by the secretary of state to the appropriate house of the general assembly for recall elections concerning the general assembly and to the governor for the recall of all other elections of state officers. For all other recall elections, a copy of the certificate shall be transmitted to the governing body of the political subdivision. The candidate who received the highest number of votes shall be sworn in and shall assume the duties of the office upon certification of the election results.

(5) If less than a majority of those voting on the recall question voted "yes", upon receipt of the certified abstract of votes cast, the designated election official shall notify in writing the incumbent, each candidate for the office, the committee, and the governing body of the incumbent.

Source: L. 92: Entire article R&RE, p. 797, § 15, effective January 1, 1993. **L. 95:** (3) and (4) amended, p. 850, § 78, effective July 1. **L. 99:** Entire section amended, p. 491, § 22, effective July 1. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1047, § 18, effective May 29.

1-12-120. Cost of recall election.

(1) If at any recall election for a state office the incumbent whose recall is sought is not recalled, the incumbent shall be repaid from the state treasury any money authorized by this article which the incumbent actually expended as an expense of the recall election. In no event shall the sum repaid be greater than an amount equal to ten cents per voter. The general assembly shall provide an appropriation for state recall elections.

(2) If, at any recall election for a county or local government office, an election is held and the incumbent is not recalled, the governing body shall authorize a resolution for repayment from the general fund of the political subdivision any money authorized to be repaid to the incumbent

by this article 12, which the incumbent actually expended as an expense of the election. In no event shall the sum repaid exceed forty cents per eligible elector as defined in section 1-1-104 (16), subject to a maximum repayment of ten thousand dollars.

(3) Authorized expenses only include money spent after a petition has been deemed sufficient by the designated election official in challenging the sufficiency of the recall petition and in presenting to the electors the official position of the incumbent, including campaign literature, advertising, and maintaining campaign headquarters.

(4) Unauthorized expenses include money spent prior to the date on which a petition has been deemed sufficient by the designated election official; money spent on challenges and court actions not pertaining to the sufficiency of the recall petition; personal expenses for meals; lodging and mileage for the incumbent; costs of maintaining a campaign staff and associated expenses; reimbursement for expenses incurred by a campaign committee which has solicited contributions; reimbursement of any kind for employees in the incumbent's office; and all expenses incurred prior to the filing of the recall petition.

(5) The incumbent shall file a complete and detailed request for reimbursement within sixty days after the date of the recall election with the governing body of the political subdivision holding the recall election, who shall then review the reimbursement request for appropriateness under subsection (2) of this section and shall refer the request, with recommendations, to the general assembly at its next general session for state recall elections or to the treasurer of the governing body for all other elections within thirty days after receipt of the request for reimbursement.

Source: L. 92: Entire article R&RE, p. 798, § 15, effective January 1, 1993. **L. 97:** (2) amended, p. 1064, § 9, effective May 27. **L. 2021:** (2), (3), and (4) amended, (SB 21-250), ch. 282, p. 1666, § 65, effective June 21.

1-12-120.5. Reimbursement for recall election expenses.

A political subdivision shall reimburse the office of the county clerk and recorder for reasonable expenses incurred by the county clerk and recorder in performing duties relating to the recall of an incumbent of the political subdivision under this part 1.

Source: L. 2012: Entire section added, (HB 12-1293), ch. 236, p. 1048, § 19, effective May 29.

1-12-121. Special provisions.

(1) If the governor is sought to be recalled under this article by recall petition filed in the office of the secretary of state, the duties imposed upon the governor by this article and article XXI of the state constitution as to that recall petition shall be performed by the lieutenant governor. If the secretary of state is sought to be recalled under this article by recall petition filed in the office of the secretary of state, the duties imposed upon the secretary of state by this article and article XXI of the state constitution as to that recall petition shall be performed by the state auditor.

(2) If recall is sought of any other elected or appointed officer who is charged with responsibilities under this article, the governing body shall immediately appoint another person to perform those duties.

Source: L. 92: Entire article R&RE, p. 799, § 15, effective January 1, 1993. **L. 2012:** Entire section amended, (HB 12-1293), ch. 236, p. 1048, § 20, effective May 29.

1-12-122. Recalls subject to "Fair Campaign Practices Act".

Recall elections are subject to the appropriate sections of article 45 of this title.

Source: L. 95: Entire section added, p. 850, § 79, effective July 1.

1-12-123. Conflicts with constitutional requirements for recall of state officers or other elections laws.

(1) To the extent that this part 1 concerning the recall of state officers conflicts with article XXI of the state constitution, article XXI of the state constitution controls.

(2) To the extent that this part 1 conflicts with other provisions of this code, this part 1 controls.

Source: L. 97: Entire section added, p. 1064, § 10, effective May 27. **L. 2014:** Entire section amended, (SB 14-158), ch. 170, p. 622, § 11, effective May 9.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

PART 2

VACANCIES IN OFFICE

1-12-201. Vacancies in office of United States senator.

(1) When a vacancy occurs in the office of United States senator from the state, the governor shall make a temporary appointment to fill the vacancy until it is filled by election. The governor shall appoint a person who is a member of the same political party as the former United States senator.

(2) When a vacancy occurs, the governor shall direct the secretary of state to include in the general election notice for the next general election a notice of the filling of the vacancy. The secretary of state shall give notice accordingly. At the election, the vacancy shall be filled for the unexpired term. If, for any reason, no United States senator is elected at the next general election, the person temporarily appointed by the governor shall hold the office until a United States senator is elected at a succeeding general election.

Source: L. 92: Entire article R&RE, p. 799, § 15, effective January 1, 1993. **L. 2026:** (1) amended, (HB 26-1113), ch. 267, p. 1513, § 58, effective June 1.

Editor's note: This section is similar to former § 1-12-101 as it existed prior to 1992.

1-12-202. Vacancies in office of representative in congress.

Except as provided in section 1-4-401.5, when any vacancy occurs in the office of representative in congress from this state, the governor shall set a day to hold a congressional vacancy election to fill the vacancy and cause notice of the election to be given as required in part 2 of article 5 of this title; but congressional vacancy elections shall not be held within the ninety-day period preceding a general election.

Source: L. 92: Entire article R&RE, p. 800, § 15, effective January 1, 1993. **L. 2008:** Entire section amended, p. 410, § 5, effective August 5.

Editor's note: This section is similar to former § 1-12-102 as it existed prior to 1992.

Cross references: For registration for congressional vacancy elections, see § 1-2-210; for power of the county central committee to fill vacancies, see § 1-3-104.

1-12-203. Vacancies in general assembly.

(1) In the event of a vacancy in the general assembly caused by the death or resignation of a member who has been sworn into office, caused by the death or resignation of a member who has been elected to a seat but who has not yet been sworn into office, or caused by a person not taking the oath of office as provided in subsection (3)(b) of this section, the vacancy shall be filled by the appropriate vacancy committee, if any, as provided in section 1-3-103 (1)(d), of the same political party and of the same representative or senatorial district represented by the former member whose seat is vacant. If the member was affiliated with a minor political party, then the vacancy must be filled by the vacancy committee designated in the constitution or bylaws of the minor political party. If the member was unaffiliated with a political party, then the vacancy must be filled by the vacancy committee designated on the petition for nomination pursuant to section 1-4-802 (1)(e); except that, if the member has no vacancy committee, the vacancy must be filled by the governor. Except as otherwise provided in subsection (1.5) of this section, the vacancy must be filled until the next general election after the vacancy occurs, when the vacancy must be filled by election.

(1.5) (a) Except as provided in section 1-12-208, and notwithstanding section 1-4-1010, if a vacancy in the general assembly occurs on or after July 31 of an odd-numbered year and before July 31 of the next even-numbered year and the former member whose seat is vacant was affiliated with a major political party, the vacancy must be filled by a vacancy committee pursuant to subsection (1) or (5) of this section until the next general election after the vacancy occurs, when the vacancy must be filled by election.

(b) Except as provided in section 1-12-208, and notwithstanding section 1-4-1010, if a vacancy in the general assembly occurs on or after July 31 of an even-numbered year and before July 31 of the next odd-numbered year and the former member whose seat is vacant was affiliated with a major political party, the vacancy must be filled by a vacancy committee pursuant to subsection (1) or (5) of this section until the next odd-numbered year coordinated election, when the vacancy must be filled by a major political party vacancy election; except that, if the vacant seat is scheduled to be on the ballot at the next general election in an even-numbered year and the vacancy occurs on or after July 31 of that even-numbered year but before ninety days remain in the vacant term, the remainder of the vacant term must be filled by a vacancy committee pursuant to subsection (1) of this section. The candidate elected in the major political party vacancy election shall serve until the next general election, when the vacancy must be filled by election.

(c) The only candidates who may run in a major political party vacancy election described in subsection (1.5)(b) of this section are candidates who, as of no later than the first business day of the January immediately preceding the major political party vacancy election, or as otherwise provided by the applicable party's rule, are members of the same political party and, as of no later than one year prior to the major political party vacancy election, are residents of the same representative or senatorial district as the former member whose seat is vacant. The only voters who may vote in the major political party vacancy election are voters who:

(I) Are, as of the twenty-second day before the major political party vacancy election, affiliated with the same political party as the former member whose seat is vacant or unaffiliated; and

(II) Reside in the same representative or senatorial district represented by the former member whose seat is vacant.

(d) A candidate must be placed on the ballot for a major political party vacancy election described in subsection (1.5)(b) of this section if the candidate:

(I) Files a nominating statement on a form created by the candidate's political party that is signed by thirty percent of the applicable vacancy committee members with the secretary of state and the candidate's political party before 5 p.m. on the seventieth day preceding the major political party vacancy election; or

(II) Submits to the secretary of state, no later than thirty days after their petition format has been approved or eighty-five days prior to the major political party vacancy election, whichever is sooner, a notarized candidate's statement of intent and a petition signed by at least two hundred electors, each of whom has been affiliated with the same political party as the candidate for at least twenty-two days prior to signing, and each of whom is eligible to vote in the district for which the candidate is to be elected. Part 9 of article 4 of this title 1 applies to petitions submitted pursuant to this section; except that the provisions of part 9 of article 4 of this title 1 that conflict with the requirements or timeline described in this section do not apply to petitions submitted pursuant to this section. Petitions must not be circulated and signatures must not be obtained prior to the first business day after the effective date of the vacancy. A petition must not be circulated until it has been approved as meeting the requirements of section 1-4-904 as to form. The secretary of state shall approve or disapprove a petition as to form no later than the close of the second business day following submission of the proposed petition.

(e) If a vacancy committee member signs a nominating statement in accordance with subsection (1.5)(d)(I) of this section after having signed another nominating statement filed for the same office in the same major political party vacancy election, the vacancy committee member's signature only counts toward the thirty percent of applicable vacancy committee member signatures required pursuant to subsection (1.5)(d)(I) of this section on the first nominating statement submitted that contains the signature.

(f) If an eligible elector signs a petition in accordance with subsection (1.5)(d)(II) of this section after having signed another petition submitted for the same office in the same major political party vacancy election, the elector's signature only counts toward the two hundred elector signatures required pursuant to subsection (1.5)(d)(II) of this section on the first petition submitted that contains the signature.

(g) The party chairperson of the vacancy committee of the district in which the candidate is running shall verify that a nominating statement filed pursuant to this section satisfies subsections (1.5)(d)(I) and (1.5)(e) of this section. The secretary of state shall verify that a petition submitted pursuant to this section satisfies subsections (1.5)(d)(II) and (1.5)(f) of this section.

(h) The only candidates who are placed on the ballot for a major political party vacancy election are those described in subsections (1.5)(d)(I) and (1.5)(d)(II) of this section.

(i) A major political party vacancy election must be certified by the secretary of state in the same manner as an odd-year November election is certified pursuant to section 1-5-203 (1). The secretary of state shall certify placement of the candidates on the ballot as drawn by lot.

(j) The major political party vacancy election must be conducted as part of the odd-year November coordinated election.

(k) A candidate in a major political party vacancy election may select watchers in the same manner as a candidate in a nonpartisan election as provided in section 1-7-107. The members of the canvass board for a major political party vacancy election must be appointed and certified in the manner provided in section 1-10-101. Election judges for major political party vacancy elections must be appointed in the same manner as election judges for partisan elections in accordance with section 1-6-111.

(l) If, at a major political party vacancy election, after all recounts have been completed, any two or more candidates tie for the highest number of votes for the same office, the tie must be resolved in a manner agreed upon by the tying candidates. In case the candidates fail to agree on the method of resolution within five days after the canvass is complete, the tie must be resolved by lot to be cast as the secretary of state may determine.

(1.7) A political party may choose to continue to fill a vacancy in the general assembly by vacancy committee according to subsection (1) of this section rather than by a major political party vacancy election established by subsection (1.5) of this section if at least three-fourths of the total voting membership of the party's state central committee affirmatively votes to do so. Such vote of the party's state central committee must occur no later than October 1 of the year preceding the year in which a major political party vacancy election would be held. For purposes of this vote, members of the party's state central committee shall not vote by proxy.

(2) No vacancy committee may select a person to fill a vacancy at a meeting held pursuant to this section unless a written notice announcing the time and location of the vacancy committee meeting was mailed to each of the committee members at least ten days prior to the meeting by the chairperson of the central committee that selected the members. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid.

(3) (a) The vacancy committee, by a majority vote of its members present and voting at a meeting called for that purpose and open to the public, shall select a person who possesses the constitutional qualifications for a member of the general assembly and who is affiliated with the same political party or minor political party, if any, shown in the statewide voter registration system as the former member whose seat is vacant. No vacancy committee meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee. No member of the vacancy committee may vote by proxy. All vacancy committee meetings must be accessible in real time by live streaming video or audio that is recorded and accessible to the public. The committee shall certify the selection to the secretary of state within thirty days from the date the vacancy occurs; except that, in the case of a vacancy filled pursuant to section 1-4-1006, the committee shall certify the selection within thirty days after the date of the general election affected by the vacancy. If the vacancy committee fails to certify a selection within thirty days in accordance with this subsection (3), the governor, within five days, shall fill the vacancy by appointing a person having the qualifications set forth in this subsection (3). The name of the person selected or appointed must be certified to the secretary of state.

(b) No sooner than two days after receiving the certification from the vacancy committee, the secretary of state shall certify the name of the person selected or appointed to the appropriate house of the general assembly. The oath of office shall be administered to the person within thirty days of the receipt of such certification by the appropriate house or on the convening date of the general assembly, whichever occurs first; except that the president of the senate or the speaker of the house of representatives, as appropriate, shall extend the time to take the oath upon a finding that extenuating circumstances prevented the person from taking the oath within the initial thirty-day period. In the event the person does not take the oath of office in accordance with this paragraph (b), the office shall be deemed vacant and shall be filled by the appropriate vacancy committee pursuant to the provisions of this section. The person, after having qualified and taken the oath of office, shall immediately assume the duties of office and shall serve until the next convening of the general assembly following the election certification and qualification of a successor. Nothing in this subsection (3) shall be construed to reduce the number of consecutive terms that a person appointed to fill a vacancy in the general assembly may serve in accordance with section 3 of article V of the state constitution.

(4) For purposes of this section, a vacancy caused by the resignation of a member of the general assembly occurs on the effective date of the member's letter of resignation to the chief

clerk of the house of representatives or the secretary of the senate. If the letter of resignation gives an effective date of resignation that is later than the date the letter of resignation is submitted, the vacancy committee may meet no more than twenty days prior to the effective date of the resignation for the purposes of nominating a person to fill the vacancy. The certification of the nominee of the vacancy committee to the secretary of state may not be made prior to the effective date of the resignation; further, should the member of the general assembly withdraw the letter of resignation prior to the effective date, the person nominated by the vacancy committee may not be certified to the secretary of state.

(5) If the vacancy is caused by the death of a member-elect of the general assembly who has been elected to office but who has not yet been sworn in, the vacancy committee shall meet no more than thirty days after the death of the general assembly member-elect to fill the vacancy. The certification of the nomination of the vacancy committee to the secretary of state may be made prior to the convening of the general assembly but shall not take effect until the effective date of the vacancy, which is the first day the general assembly convenes.

(6) (a) Notwithstanding any provision to the contrary, a member of a vacancy committee filling a vacancy pursuant to this section may participate in a vacancy committee meeting remotely, including casting the member's vote by email, mail, telephone, or through an internet-based application if allowed by the party's rules.

(b) Repealed.

Source: L. 92: Entire article R&RE, p. 800, § 15, effective January 1, 1993. **L. 95:** (1) and (3) amended and (4) and (5) added, p. 851, § 80, effective July 1. **L. 98:** (1) and (3) amended, p. 260, § 15, effective April 13; (3) amended, p. 812, § 2, effective May 26. **L. 99:** (3) amended, p. 934, § 4, effective August 4. **L. 2008:** Entire section amended, p. 1745, § 1, effective August 5. **L. 2016:** (3)(a) amended, (SB 16-142), ch. 173, p. 587, § 66, effective May 18. **L. 2017:** (3)(a) amended, (SB 17-209), ch. 234, p. 963, § 10, effective August 9. **L. 2021:** (6) added, (HB 21-1001), ch. 1, p. 2, § 3, effective January 20; (6)(b) repealed, (SB 21-250), ch. 282, p. 1667, § 66, effective June 21. **L. 2025:** (1) and (3)(a) amended and (1.5) and (1.7) added, (HB 25-1315), ch. 180, p. 770, § 4, effective August 6.

Editor's note: (1) This section is similar to former § 1-12-103 as it existed prior to 1992.

(2) Amendments to subsection (3) by House Bill 98-1110 and Senate Bill 98-193 were harmonized.

ANNOTATION

Applied in Kallenberger v. Buchanan, 649 P.2d 314 (Colo. 1982) (decided under former law).

1-12-204. Vacancies in state and district offices.

All vacancies in any state office and in the office of district attorney shall be filled by appointment by the governor until the next general election after the vacancy occurs, when the vacancy shall be filled by election.

Source: L. 92: Entire article R&RE, p. 801, § 15, effective January 1, 1993.

Editor's note: This section is similar to former § 1-12-104 as it existed prior to 1992.

1-12-205. Vacancies in county offices.

All vacancies in any county office, except that of county commissioner, shall be filled by appointment by the board of county commissioners of the county in which the vacancy occurs. The appointed official shall serve in the county office until the next regularly scheduled general election, at which time the remainder of the vacant term, if any, shall be filled by election.

Source: L. 92: Entire article R&RE, p. 801, § 15, effective January 1, 1993. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1514, § 59, effective June 1.

Editor's note: This section is similar to former § 1-12-105 as it existed prior to 1992.

Cross references: For determination of existence of vacancy in county offices, see § 30-10-105.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Where a county clerk-elect died before qualification, a vacancy in the office occurred on the expiration of the term of the then incumbent, to be filled by appointment

by the county commissioners. Gibbs v. People ex rel. Watts, 66 Colo. 414, 182 P. 894 (1919).

One appointed to fill the vacant and unexpired term of a public office holds precisely as his predecessor would have done had the vacancy not occurred. People ex rel. Callaway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909) (decided under former law).

And one elected to a public office has a contingent or inchoate right which becomes absolute upon qualification. No one else can enter into the office during the term for which another is elected, until the officer elected is ousted, or his right terminated, which can never occur until the day appointed by law for the enforcement of his term. If at that date he has failed to qualify, the office is vacant. People ex rel. Callaway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909) (decided under former law).

1-12-206. Vacancies in the office of county commissioner - county commissioner vacancy election.

(1) In case of a vacancy occurring in the office of county commissioner, a vacancy committee constituted as provided in this section shall, by a majority vote of its members present at a meeting called for the purpose, fill the vacancy by appointment within ten days after the occurrence of the vacancy. The meeting shall not be held unless a quorum is present consisting of not less than one-half of the voting members of the vacancy committee. A member of the vacancy committee may not vote by proxy. All vacancy committee meetings must be accessible in real time by live streaming video or audio that is recorded and accessible to the public. If the vacancy committee fails to fill the vacancy within ten days, the governor shall fill the vacancy by appointment within fifteen days after the occurrence of the vacancy.

(2) If the vacating commissioner was elected by the electors of the whole county, whether at large or from a district, the successor shall be appointed by a vacancy committee constituted of those persons selected at the county central committee organizational meeting of the same political party as the vacating commissioner. In selecting the members of a vacancy committee, the central committee of a jurisdiction shall select, at a minimum, the members of the jurisdiction's central committee.

(3) If the vacating commissioner was elected only by the electors of the district from which the vacating commissioner was elected, the county commissioner district central committee of the same district and political party as the vacating commissioner shall appoint a vacancy committee whose sole purpose shall be to name a successor to the position of county commissioner. In selecting the members of a vacancy committee, the central committee of a jurisdiction shall select, at a minimum, the members of the jurisdiction's central committee. In the event the county commissioner district central committee fails to appoint a vacancy

committee, the vacancy committee shall consist of the members of the jurisdiction's central committee.

(4) If the vacating commissioner is unaffiliated, then a registered unaffiliated successor shall be appointed by the governor, acting as a vacancy committee, within ten days after the vacancy.

(4.5) If the vacating commissioner is affiliated with a minor political party, then a registered elector affiliated with the same minor political party shall be appointed as the successor pursuant to the constitution or bylaws of the minor political party.

(5) Any person appointed to a vacancy in the office of county commissioner under this section must be a resident of the county and reside within the district, if any, in which the vacancy exists and must be a member of the same major political party or minor political party, if any, shown in the statewide voter registration system as the vacating commissioner. Except as otherwise provided in subsection (8) of this section, a person appointed pursuant to this section holds the office until the next general election or until the vacancy is filled by election according to law.

(6) A vacancy committee may not select a person to fill a vacancy at a meeting held pursuant to this section unless a written notice announcing the time and location of the vacancy committee meeting is mailed to each member of the vacancy committee at least six days before the meeting by the chairperson of the central committee. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail with first-class postage prepaid.

(7) (a) Notwithstanding any provision to the contrary, a member of a vacancy committee filling a vacancy pursuant to this section may participate in a vacancy committee meeting remotely, including casting the member's vote by email, mail, telephone, or through an internet-based application if allowed by the party's rules.

(b) Repealed.

(8) (a) Except as provided in section 1-12-208 and notwithstanding any provision to the contrary in section 1-4-1010, unless the political party has voted pursuant to subsection (9) of this section to continue to fill vacancies by vacancy committee according to subsection (1) of this section, for counties with a population of at least fifty thousand active voters as of the date of the last general election that are not home rule counties, if a vacancy in the office of county commissioner occurs on or after July 31 of an even-numbered year and before July 31 of the next odd-numbered year and the former commissioner whose seat is vacant was affiliated with a major political party, the vacancy must be filled by a vacancy committee pursuant to subsection (1) of this section until the next regularly scheduled odd-year November election, when the vacancy must be filled by county commissioner vacancy election; except that, if the vacancy occurs for a seat that is scheduled to be on the ballot at the upcoming general election held in that even-numbered year and the vacancy occurs on or after July 31 of that even-numbered year but before the ninety-day period governed by section 1-12-208, the vacancy is filled by vacancy

committee pursuant to this section. The candidate elected in the county commissioner vacancy election shall serve until the next regularly scheduled general election, when the vacancy must be filled by election.

(b) The only candidates who may run in a county commissioner vacancy election are candidates who are members of the same political party and residents of the same district as the former commissioner whose seat is vacant. A candidate must be registered with the same major political party as the vacating commissioner by the first business day in January of the calendar year in which the county commissioner vacancy election occurs.

(c) A candidate for a county commissioner vacancy election is eligible to be placed on the ballot if the candidate:

(I) Files a nominating statement on a form created by the candidate's political party that is signed by at least thirty percent of the applicable vacancy committee members with the county clerk and recorder and the candidate's political party before 5 p.m. on the seventieth day preceding the county commissioner vacancy election; or

(II) Submits to the county clerk and recorder, no later than thirty days after their petition format has been approved or eighty-five days prior to the county commissioner vacancy election, whichever is sooner, a notarized candidate's statement of intent and a petition signed by at least two hundred electors who have been affiliated with the same political party as the candidate for twenty-two days before signing the petition and are eligible to vote in the district for which the candidate is to be elected. Part 9 of article 4 of this title 1 applies to petitions submitted pursuant to subsection (8) of this section; except that the provisions of part 9 of article 4 of this title 1 that conflict with the requirements or timeline described in this section, as well as provisions of part 9 of article 4 of this title 1 that apply to the secretary of state's review of petitions, do not apply to petitions submitted and reviewed pursuant to subsection (8) of this section. Petitions must not be circulated and signatures must not be obtained prior to the first business day after the effective date of the vacancy. A petition must not be circulated until it has been approved as meeting the requirements of section 1-4-904 as to form. The county clerk and recorder shall approve or disapprove a petition as to form no later than the close of the second business day following submission of the proposed petition.

(d) A candidate shall only seek to be placed on the ballot for a county commissioner vacancy election through one, but not both, of the methods described in subsection (3)(c) of this section.

(e) (I) The candidate's political party county chair shall verify that a nominating statement filed pursuant to this subsection (8) satisfies the requirements of subsection (8)(c)(I) of this section. Upon the political party county chair's verification that the nominating statement is sufficient, the county clerk and recorder shall certify the candidate to the ballot.

(II) If a vacancy committee member signs a nominating statement in accordance with subsection (8)(c)(I) of this section after having signed another nominating statement filed for the

same office in the same county commissioner vacancy election, the vacancy committee member's signature only counts toward the thirty percent of applicable vacancy committee member signatures required pursuant to subsection (8)(c)(I) of this section on the first nominating statement submitted that contains the signature.

(f) (I) The county clerk and recorder shall verify that a petition submitted pursuant to this subsection (8) satisfies the requirements of subsection (8)(c)(II) of this section. The county clerk and recorder shall review the petition according to section 1-4-908; except that the county clerk and recorder shall notify the candidate of the sufficiency or insufficiency of the petition no later than ten calendar days after receiving the petition. If the county clerk and recorder determines the petition to be sufficient, the county clerk and recorder shall issue a statement of sufficiency. Protests and review of the sufficiency of a petition are according to sections 1-4-909 and 1-4-911. Candidate placement on the ballot is drawn by lot.

(II) If an eligible elector signs a petition in accordance with subsection (8)(c)(II) of this section after having signed another petition submitted for the same office in the same county commissioner vacancy election, the elector's signature only counts toward the two hundred elector signatures required pursuant to subsection (8)(c)(II) of this section on the first petition submitted that contains the signature.

(g) The only voters who may vote in the county commissioner vacancy election are eligible electors of the county of the former commissioner whose seat is vacant and who:

(I) Are affiliated, as of the twenty-second day before the county commissioner vacancy election, with the same political party as the former commissioner whose seat is vacant; or

(II) Are unaffiliated with a political party as of the twenty-second day before the county commissioner vacancy election.

(h) Except as modified by this subsection (8), the appropriate county clerk and recorder shall conduct the county commissioner vacancy election as part of the coordinated odd-year November election.

(i) Upon receipt of the certified abstract of votes cast, the county clerk and recorder shall issue a certificate of election to the successor candidate who received the highest number of votes at the county commissioner vacancy election. The candidate who received the highest number of votes must be sworn in and assumes the duties of the office upon certification of the election results.

(j) County commissioner vacancy elections are subject to the appropriate sections of article 45 of this title 1 and article XXVIII of the state constitution. An individual who seeks nomination or election to the office of county commissioner at a county commissioner vacancy election is a "candidate" for purposes of article 45 of this title 1 and section 2 (2) of article XXVIII of the state constitution.

(k) A candidate in a county commissioner vacancy election may select watchers in the same manner as a candidate in a nonpartisan election as provided in section 1-7-107. The members of the canvass board for a county commissioner vacancy election must be appointed and certified in the manner provided in section 1-10-101. Election judges for county commissioner vacancy elections must be appointed in the same manner as election judges for partisan elections in accordance with section 1-6-111.

(l) If, at a county commissioner vacancy election, after all recounts have been completed, any two or more candidates tie for the highest number of votes for the same office, the tie must be resolved in a manner agreed upon by the tying candidates. In case the candidates fail to agree on the method of resolution within five days after the canvass is complete, the tie must be resolved by lot to be cast as the appropriate county clerk and recorder may determine.

(9) (a) A political party may choose to continue to fill a vacancy in the office of county commissioner by vacancy committee according to subsection (1) of this section rather than by the county commissioner vacancy election process established by subsection (8) of this section if at least three-fourths of the total voting membership of the party's state central committee affirmatively votes to do so. Such vote of the party central committee must occur no later than October 1 of the year preceding the year in which a county commissioner vacancy election would be held. For purposes of this vote, members of the state central committee shall not vote by proxy.

(b) Repealed.

Source: L. 92: Entire article R&RE, p. 801, § 15, effective January 1, 1993. **L. 98:** (4.5) added and (5) amended, p. 260, § 16, effective April 13. **L. 2008:** (1) amended and (6) added, p. 1747, § 2, effective August 5. **L. 2016:** (5) amended, (SB 16-142), ch. 173, p. 588, § 67, effective May 18. **L. 2021:** (7) added, (HB 21-1001), ch. 1, p. 2, § 4, effective January 20; (7)(b) repealed, (SB 21-250), ch. 282, p. 1667, § 67, effective June 21. **L. 2022:** (2) and (3) amended, (HB 22-1044), ch. 83, p. 403, § 2, effective August 10. **L. 2025:** (1) and (5) amended and (8) and (9) added, (HB 25-1319), ch. 272, p. 1405, § 3, effective May 28.

Editor's note: (1) This section is similar to former § 1-12-106 as it existed prior to 1992.

(2) Subsection (9)(b)(II) provided for the repeal of subsection (9)(b), effective January 1, 2026. (See L. 2025, p. 1405.)

1-12-207. Vacancies on nonpartisan boards.

(1) Any vacancy on a nonpartisan board shall be filled by appointment by the remaining director or directors. The appointee shall meet all of the qualifications for holding the office. The appointee shall serve until the next regular election, at which time any remaining unexpired portion of the term shall be filled by election. If the board fails, neglects, or refuses to fill any vacancy within sixty days after it occurs, the board of county commissioners of the county in which the organizational petition is filed shall fill the vacancy.

(2) If there are no duly elected directors and if the failure to appoint a new board will result in the interruption of services that are being provided by the district, then the board of county commissioners of the county in which the organizational petition is filed may appoint all directors. Any board appointed pursuant to this subsection (2) shall call a special election within six months after its appointment.

Source: L. 92: Entire article R&RE, p. 802, § 15, effective January 1, 1993.

ANNOTATION

A director appointed to the board of a ground water management district pursuant to § 37-90-126 must stand for election at the district's next regular election. The ground water management law does not address the issue. Because the election code was intended to provide answers to election procedures not included in other statutes, this section controls. Deutsch v. Kalcevic, 140 P.3d 340 (Colo. App. 2006).

1-12-208. Unexpired terms less than ninety days.

No person shall be elected to fill a vacancy in an elective office when the unexpired term is, at the time of the election, less than ninety days. In such case, the person appointed to fill the vacancy shall continue to hold the office for the remainder of the unexpired term and until the successor elected at the election is duly qualified.

Source: L. 92: Entire article R&RE, p. 802, § 15, effective January 1, 1993.

Editor's note: This section is similar to former § 1-12-107 as it existed prior to 1992.

1-12-209. Terms of persons filling vacancies.

Except for appointments on nonpartisan boards, any officers elected or appointed to fill vacancies as provided in this article shall qualify and enter upon the duties of their offices immediately thereafter. If elected or appointed, the officers shall hold the office during the unexpired term for which they were elected or appointed until the next regularly scheduled general election, or for county commissioner or general assembly vacancies, until the next regularly scheduled coordinated or general election, whichever is applicable, at which time the remainder of the vacant term, if any, shall be filled by election, except as otherwise provided by law, in accordance with section 1-1-201.

Source: L. 92: Entire article R&RE, p. 802, § 15, effective January 1, 1993. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1514, § 60, effective June 1.

Editor's note: This section is similar to former § 1-12-108 as it existed prior to 1992.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

One appointed to fill the vacant and unexpired term of a public office holds precisely as his predecessor would have done had the vacancy not occurred. People ex rel. Callaway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909).

And one elected to a public office has a contingent or inchoate right which becomes absolute upon qualification. No one else can enter into the office during the term for which another is elected, until the officer elected is ousted, or his right terminated, which can never occur until the day appointed by law for the enforcement of his term. If at that date he has failed to qualify, the office is vacant. People ex rel. Callaway v. De Guelle, 47 Colo. 13, 105 P. 1110 (1909).

1-12-210. Certification of appointment.

All appointments under this article shall be evidenced by an appropriate entry in the minutes of the meeting of the governing board, and the appointing body shall cause a notice of appointment and the oath of office to be delivered to the person appointed. A duplicate of each notice of appointment, an acceptance of appointment, and the mailing address of the person appointed

shall be kept as a permanent record by the appointing body and forwarded to any other appropriate official.

Source: L. 92: Entire article R&RE, p. 803, § 15, effective January 1, 1993.

ARTICLE 13

Election Offenses

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PART 9
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PART 1

OFFENSES - GENERAL PROVISIONS

1-13-101. District attorney or attorney general to prosecute.

(1) Any person may file an affidavit with the district attorney stating the name of any person who has violated any of the provisions of this code and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the district attorney shall forthwith investigate, and, if reasonable grounds appear therefor, he shall prosecute the violator.

(2) The attorney general shall have equal power with district attorneys to file and prosecute informations or complaints against any persons for violating any of the provisions of this code.

Source: L. 80: Entire article R&RE, p. 428, § 1, effective January 1, 1981.

Editor's note: This section is similar to former § 1-13-101 as it existed prior to 1980.

1-13-102. Sufficiency of complaint - judicial notice.

Irregularities or defects in the mode of calling, giving notice of, convening, holding, or conducting any general, primary, or congressional vacancy election authorized by law constitute no defense to a prosecution for a violation of this code. When an offense is committed in relation to any general, primary, or congressional vacancy election, an indictment, information, or complaint for such offense is sufficient if it alleges that such election was authorized by law without stating the call or notice of the election, the names of the judges holding such election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any general, primary, or congressional vacancy election.

Source: L. 80: Entire article R&RE, p. 428, § 1, effective January 1, 1981.

Editor's note: This section is similar to former § 1-13-102 as it existed prior to 1980.

1-13-103. Immunity of witness from prosecution.

Any person violating any of the provisions of this code is a competent witness against any other violator and may be compelled to attend and testify at any trial, hearing, proceeding, or

investigation in the same manner as other persons; but the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony. A person so testifying shall not thereafter be liable to indictment, prosecution, or punishment for the offense with reference to which his testimony was given and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution.

Source: L. 80: Entire article R&RE, p. 429, § 1, effective January 1, 1981.

Editor's note: This section is similar to former §§ 1-13-103 and 1-30-116 as they existed prior to 1980.

1-13-104. Perjury.

Any person, having taken any oath or made any affirmation required by this code, who swears or affirms willfully, corruptly, and falsely in a matter material to the issue or point in question or who suborns any other person to swear or affirm as aforesaid commits perjury in the second degree as set forth in section 18-8-503, C.R.S., and shall be punished as provided in section 18-1.3-501, C.R.S.

Source: L. 80: Entire article R&RE, p. 429, § 1, effective January 1, 1981. **L. 2002:** Entire section amended, p. 1464, § 5, effective October 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

1-13-105. False certificates by officers.

Any notary public or any officer authorized by law to administer oaths who knowingly makes a false certificate in regard to a matter connected with an election held under the laws of this state upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 429, § 1, effective January 1, 1981. **L. 2002:** Entire section amended, p. 1464, § 6, effective October 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3122, § 2, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-111 and 1-30-125 as they existed prior to 1980.

Cross references: (1) For the power of officers to administer oaths, see § 24-12-103.

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

1-13-106. Forgery.

Any person who falsely makes, alters, forges, or counterfeits any ballot before or after it has been cast, or who forges any name of a person as a signer or witness to a petition or nomination paper, or who forges any letter of acceptance, declination, or withdrawal, or who forges the name of a registered elector to a voter's mail-in or mail ballot commits forgery as set forth in section 18-5-102, C.R.S., and shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 80: Entire article R&RE, p. 429, § 1, effective January 1, 1981. **L. 93:** Entire section amended, p. 1435, § 120, effective July 1. **L. 94:** Entire section amended, p. 1622, § 5, effective May 31. **L. 2002:** Entire section amended, p. 1464, § 7, effective October 1. **L. 2007:** Entire section amended, p. 1797, § 65, effective June 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 747, § 117, effective May 10.

Editor's note: This section is similar to former §§ 1-13-107 and 1-30-130 as they existed prior to 1980.

Cross references: (1) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

(2) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-107. Violation of duty.

Any public officer, election official, or other person upon whom any duty is imposed by this code who violates, neglects, or fails to perform such duty or is guilty of corrupt conduct in the discharge of the same or any notary public or other officer authorized by law to administer oaths who administers any oath knowing it to be false or who knowingly makes a false certificate in regard to a matter connected with any election provided by law upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 429, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3123, § 3, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-111 and 1-30-113 (1) as they existed prior to 1980.

ANNOTATION

There was insufficient evidence to find that the secretary of state had a conflict of interest with a voting equipment vendor, exercised undue influence in the certification and testing process, or engaged in corrupt conduct in the discharge of his duties. Colo. Ethics Watch v. Coffman, Indep. Ethics Comm'n 08-01.

1-13-108. Anonymous statements concerning candidates or issues. (Repealed)

Source: L. 80: Entire article R&RE, p. 429, § 1, effective January 1, 1981. **L. 87:** Entire section amended, p. 297, § 30, effective June 26. **L. 89:** Entire section amended, p. 311, § 25, effective May 9. **L. 97:** Entire section repealed, p. 1545, § 15, effective July 1.

1-13-109. False or reckless statements relating to candidates or questions submitted to electors - penalties - definitions.

(1) (a) No person shall knowingly make, publish, broadcast, or circulate or cause to be made, published, broadcasted, or circulated in any letter, circular, advertisement, or poster or in any other communication any false statement designed to affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office.

(b) Any person who violates any provision of subsection (1)(a) of this section upon conviction shall be punished as provided in section 1-13-111.

(2) (a) No person shall recklessly make, publish, broadcast, or circulate or cause to be made, published, broadcasted, or circulated in any letter, circular, advertisement, or poster or in any other communication any false statement designed to affect the vote on any issue submitted to the electors at any election or relating to any candidate for election to public office. Notwithstanding any other provision of law, for purposes of this subsection (2), a person acts "recklessly" when he or she acts in conscious disregard of the truth or falsity of the statement made, published, broadcasted, or circulated.

(b) Any person who violates any provision of paragraph (a) of this subsection (2) commits a class 2 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501, C.R.S.

(3) For purposes of this section, "person" means any natural person, partnership, committee, association, corporation, labor organization, political party, or other organization or group of persons, including a group organized under section 527 of the internal revenue code.

Source: L. 80: Entire article R&RE, p. 430, § 1, effective January 1, 1981. **L. 2002:** (2) amended, p. 1464, § 8, effective October 1. **L. 2005:** Entire section amended, p. 1366, § 1, effective September 1. **L. 2021:** (1)(b) amended, (SB 21-271), ch. 462, p. 3123, § 4, effective March 1, 2022.

Editor's note: This section is similar to former § 1-30-133 as it existed prior to 1980.

Cross references: For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of Colorado 2002.

1-13-110. Wagers with electors.

It is unlawful for any person, including any candidate for election to public office, before or during any election provided by law, to make any bet or wager with an elector, or take a share or interest in, or in any manner become a party to, any such bet or wager, or provide or agree to provide any money to be used by another in making such bet or wager upon any event or contingency arising out of such election. Any person who violates this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 430, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3123, § 5, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-126 and 1-30-104 as they existed prior to 1980.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The prohibition of wagers with electors is penal in nature. Bd. of Trustees v. People ex rel. Keith, 13 Colo. App. 553, 59 P. 72 (1899).

But it does not make a forfeiture of office a part of the punishment. Bd. of Trustees v. People ex rel. Keith, 13 Colo. App. 553, 59 P. 72 (1899).

Even if the offense were sufficient to justify a removal from office, a board of trustees could not remove the mayor of a town on such charge till he had been tried and convicted in a court of competent jurisdiction. Bd. of Trustees v. People ex rel. Keith, 13 Colo. App. 553, 59 P. 72 (1899).

1-13-111. Penalties for election offenses.

In all cases in which an offense denominated in this code has no penalty specified, the offender commits a class 2 misdemeanor.

Source: L. 80: Entire article R&RE, p. 430, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3123, § 6, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-104 (2) as it existed prior to 1980.

1-13-112. Offenses relating to mail ballots.

Any person who, by use of force or other means, unduly influences an elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges, or counterfeits any mail ballot before or after it has been cast, or who destroys, defaces, mutilates, or tampers with such a ballot upon conviction shall be punished as provided in section 1-13-111.

Source: L. 90: Entire section added, p. 318, § 2, effective January 1, 1991. **L. 95:** Entire section amended, p. 852, § 83, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3123, § 7, effective March 1, 2022.

ANNOTATION

The general assembly did not intend to limit prosecution for offenses related to mail ballots to this section because there is no clear legislative intent to do so in the Colorado revised statutes or the act enacting this section. Therefore, the prosecution was able to charge the defendant with a mail ballot offense and with felony forgery under the general criminal code. People v. Curtis, 2021 COA 103, 498 P.3d 677 (decided under law in effect prior to the 2021 amendment).

1-13-113. Interference with distribution of election material.

During the period beginning forty-five days before and ending four days after any election, any person who prevents, hinders, or interferes with the lawful distribution of any card, pamphlet, circular, poster, handbill, yard sign, or other written material relating to any candidate for election for any office or relating to any issue that is to be submitted to the electors in any election, or any person who removes, defaces, or destroys any lawfully placed billboard, sign, or written material from any premises to which it was delivered upon conviction shall be punished as provided in section 1-13-111. Any person found guilty of removing, defacing, or destroying any billboard, sign, or written material shall pay the cost of replacement. The owner of the premises, an authorized agent of the owner, or any person charged with enforcement of any state law, ordinance, or regulation may remove any billboard, sign, or written material without penalty when placed without permission or authorization of the owner of such premises, or in violation of state law or county or municipal ordinance or regulation, or which is in place at any time other than during the period beginning forty-five days before and ending four days after any election.

Source: L. 93: Entire section added, p. 1627, § 1, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3124, § 8, effective March 1, 2022.

1-13-114. Failure to comply with requirements of secretary of state.

(1) Any person who willfully interferes or willfully refuses to comply with the rules, orders, or acceptable use policy for the statewide voter registration system of the secretary of state or the secretary of state's designated agent in the carrying out of the powers and duties prescribed in section 1-1-107 commits a class 1 misdemeanor and, upon conviction thereof, shall be punished as provided in section 18-1.3-501.

(2) Any person who willfully interferes with any person in notifying or obstructs any person from notifying the department of state of a potential violation of subsection (1) of this section when the person reasonably believes that a violation of subsection (1) of this section has occurred or will occur, or retaliates therefore, upon conviction shall be punished as provided in section 1-13-111.

Source: L. 96: Entire section added with relocations, p. 1764, § 48, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3124, § 9, effective March 1, 2022. **L. 2022:** Entire section amended, (SB 22-153), ch. 322, p. 2282, § 15, effective June 2.

Editor's note: This section is similar to former § 1-1-107 (3) as it existed prior to 1996.

Cross references: For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

PART 2

OFFENSES - QUALIFICATIONS AND REGISTRATION OF ELECTORS

1-13-201. Interfering with or impeding registration.

Any person who intentionally interferes with or impedes the registration of electors, whether by act of commission or by failure to perform any act or duty imposed or required for the proper administration of parts 2 and 3 of article 2 of this title 1, or who knowingly permits or encourages another to do so upon conviction shall be punished as provided in section 1-13-111. A person who collects a voter registration application from an eligible elector for mailing or

delivery to the county clerk and recorder and who fails to mail or deliver the application to the proper county clerk and recorder within five business days after the application is signed is guilty of a violation of this section; except that this section shall not apply to a voter registration drive circulator or voter registration drive organizer, who shall be subject to the penalties described in part 7 of article 2 of this title 1.

Source: L. 80: Entire article R&RE, p. 430, § 1, effective January 1, 1981. **L. 2005:** Entire section amended, p. 1425, § 54, effective June 6; entire section amended, p. 1460, § 54, effective June 6. **L. 2010:** Entire section amended, (HB 10-1116), ch. 194, p. 839, § 27, effective May 5. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3124, § 10, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-108 as it existed prior to 1980.

1-13-202. Unlawful qualification as taxpaying elector.

It is unlawful to take or place title to property in the name of another or to pay the taxes or to take or issue a tax receipt in the name of another for the purpose of attempting to qualify such person as a taxpaying elector or as a qualified taxpaying elector or to aid or assist any person to do so. The ballot of any person violating this section shall be void. Any person, company, corporation, or association violating this section shall forfeit and lose all rights, franchises, or other benefits accruing or to accrue to the benefit of such person, company, corporation, or association by or as the result of any such election. Any person who violates any of the provisions of this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 430, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3124, § 11, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-113 as it existed prior to 1980.

1-13-203. Procuring false registration.

It is unlawful for any person to procure his or her own name, or the name of any other person, to be registered in the statewide voter registration system for a precinct in which such person is not, at the time of such registration, entitled to be registered or for any person to procure any fictitious name to be registered in the statewide voter registration system. Any person who

violates this section upon conviction shall be punished as provided in section 1-13-111. Each violation is considered a separate offense.

Source: L. 80: Entire article R&RE, p. 431, § 1, effective January 1, 1981. **L. 95:** Entire section amended, p. 852, § 84, effective July 1. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 588, § 68, effective May 18. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3125, § 12, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-114 and 1-30-119 as they existed prior to 1980.

1-13-204. Adding names after registration closed. (Repealed)

Source: L. 80: Entire article R&RE, p. 431, § 1, effective January 1, 1981. **L. 2016:** Entire section repealed, (SB 16-142), ch. 173, p. 593, § 82, effective May 18.

Editor's note: This section was similar to former §§ 1-13-117 and 1-30-120 as they existed prior to 1980.

1-13-205. County clerk and recorder signing wrongful registration.

Every county clerk and recorder who willfully signs his or her name on the registration record opposite the name of any person knowing that said person is not legally entitled to be registered pursuant to the provisions of section 1-2-101 upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 431, § 1, effective January 1, 1981. **L. 91:** Entire section amended, p. 638, § 79, effective May 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3125, § 13, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-115 as it existed prior to 1980.

1-13-206. Disposition of mail voter registration application. (Repealed)

Source: L. 80: Entire article R&RE, p. 431, § 1, effective January 1, 1981. **L. 95:** Entire section repealed, p. 853, § 88, effective July 1.

1-13-207. Signature on registration record is proof of oath.

Any elector, election official, or other person, by his signature on the registration record, shall be conclusively deemed in law to have duly verified such registration record. The registration record containing such signature, or a copy thereof certified by the county clerk and recorder, shall be admissible in evidence as proof of the taking of an oath or affirmation as to the information contained therein in all criminal proceedings pursuant to sections 1-13-104, 1-13-203, and 1-13-205.

Source: L. 80: Entire article R&RE, p. 431, § 1, effective January 1, 1981. **L. 91:** Entire section amended, p. 638, § 80, effective May 1.

Editor's note: This section is similar to former § 1-13-116 as it existed prior to 1980.

1-13-208. Deputy county clerk and recorder - influencing party affiliation.

Any deputy county clerk and recorder for voter registration purposes, or employee of the department of revenue who is authorized to conduct voter registration at local driver's license examination facilities, or employee of a voter registration agency who is authorized to conduct voter registration who influences or attempts to influence any person during the registration process to affiliate with a political party or to affiliate with a specific political party upon conviction shall be punished as provided in section 1-13-111.

Source: L. 92: Entire section added, p. 803, § 16, effective January 1, 1993. **L. 94:** Entire section amended, p. 1771, § 34, effective January 1, 1995. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3125, § 14, effective March 1, 2022.

1-13-209. High school deputy registrar - influencing party affiliation.

Any high school deputy registrar for voter registration purposes who influences or attempts to influence any person during the registration process to affiliate with a political party or to affiliate with a specific political party upon conviction shall be punished as provided in section 1-13-111.

Source: L. 92: Entire section added, p. 623, § 2, effective July 1. **L. 93:** Entire section amended, p. 1435, § 121, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3125, § 15, effective March 1, 2022.

PART 3

OFFENSES - POLITICAL PARTY ORGANIZATION

1-13-301. Fraud at precinct caucus, assembly, or convention.

Any person in authority at any precinct caucus, assembly, or convention who in any manner dishonestly, corruptly, or fraudulently performs any act devolving on him or her by virtue of the position of trust which he or she fills or knowingly aids or abets any other person to do any fraudulent, dishonest, or corrupt act or thing in reference to the carrying on of any precinct caucus, assembly, or convention or the ascertaining or promulgating of its true will upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 431, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3126, § 16, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-112 as it existed prior to 1980.

1-13-302. Fraudulent voting in precinct caucus, assembly, or convention.

Any person who fraudulently participates and votes in a precinct caucus, assembly, or convention when he or she is not a member of the political party holding the precinct caucus, assembly, or convention, as shown in the statewide voter registration system upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 431, § 1, effective January 1, 1981. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 588, § 69, effective May 18. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3126, § 17, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-119 as it existed prior to 1980.

1-13-303. Other offenses at precinct caucus, assembly, or convention.

(1) It is unlawful for any person at any precinct caucus, assembly, or convention:

(a) To fraudulently vote more than once;

(b) To knowingly hand in two or more ballots deceitfully folded together;

(c) To knowingly procure, aid, counsel, or advise another to vote or attempt to vote fraudulently or corruptly;

(d) To falsely personate any elector and vote under his name or under an assumed name;

(e) To fraudulently procure, aid, abet, or encourage, directly or indirectly, any person to attempt to falsely personate any elector or to vote under an assumed name;

(f) To influence any voter in the casting of his vote by bribery, duress, or any other corrupt or fraudulent means; or

(g) To receive any money or valuable thing, or the promise of either, for casting his vote for or against any person or measure or to offer his vote for or against any person or measure in consideration of money or other valuable thing, or the promise of either.

(2) Any person who violates any of the provisions of subsection (1) of this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 432, § 1, effective January 1, 1981. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3126, § 18, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-120 and 1-30-127 as they existed prior to 1980.

PART 4

OFFENSES - ACCESS TO BALLOT BY CANDIDATE

1-13-401. Bribery of petition signers.

Any person who offers or, with knowledge of the same, permits any person to offer for his or her benefit any bribe or promise of gain to an elector to induce him or her to sign any petition or other election paper or any person who accepts any bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe is offered or accepted before or after signing upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 432, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3126, § 19, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-121 as it existed prior to 1980.

1-13-402. Tampering with nomination papers - nomination petitions.

(1) Any person who, being in possession of any petition, certificate of nomination, or letter of acceptance, declination, or withdrawal, wrongfully or willfully destroys, defaces, mutilates, suppresses, neglects to file, or fails to cause to be filed the same within the prescribed time or who files any such paper knowing the same, or any part thereof, to be falsely made or who adds, amends, alters, or in any way changes the information on the petition as written by a signing elector upon conviction shall be punished as provided in section 1-13-111.

(2) Any person who willfully destroys, defaces, mutilates, or suppresses any nomination petition or who willfully neglects to file or delays the delivery of the nomination petition or who conceals or removes any petition from the possession of the person authorized by law to have the custody thereof, or who aids, counsels, procures, or assists any person in doing any of said acts upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 432, § 1, effective January 1, 1981. **L. 88:** Entire section amended, p. 294, § 5, effective May 29. **L. 89:** (1) amended, p. 311, § 26, effective May 9. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3126, § 20, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-129 as it existed prior to 1980.

1-13-403. Defacing of petitions other than nominating petitions.

Any person who willfully destroys, defaces, mutilates, or suppresses a petition; who willfully neglects to file or delays delivery of a petition; who conceals or removes a petition from the possession of the person authorized by law to have custody of it; or who aids, counsels, procures, or assists any person in doing any of the above acts upon conviction shall be punished as provided in section 1-13-111.

Source: L. 95: Entire section added, p. 852, § 84, effective July 1. **L. 96:** Entire section amended, p. 1764, § 49, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3127, § 21, effective March 1, 2022.

PART 5

(Reserved)

PART 6

OFFENSES - NOTICE AND PREPARATION FOR ELECTIONS

1-13-601. Tampering with notices or supplies.

Any person who, prior to an election, willfully defaces, removes, or destroys any notice of election posted in accordance with the provisions of this code, or who, during an election, willfully defaces, removes, or destroys any card of instruction or sample ballot printed or posted for the instruction of electors, or who, during an election, willfully defaces, removes, or destroys any of the supplies or conveniences furnished to enable a voter to prepare the voter's ballot upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 433, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3127, § 22, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-130 as it existed prior to 1980.

PART 7

OFFENSES - CONDUCT OF ELECTIONS

1-13-701. Interference with election official - intimidation or retaliation against election official.

(1) At any election provided by law, it is unlawful for any person to interfere in any manner with any election official in the discharge of the election official's duty or to induce any election official to violate or refuse to comply with the election official's duty or any law regulating the same.

(2) It is unlawful for any person, whether verbally, in writing, or in person, to threaten, coerce, or intimidate an election official with the intent to:

(a) Impede or interfere with the official while the official is engaged in the performance of the official's duties; or

(b) Retaliate against the official on account of the official's performance of the official's duties.

(3) This section does not apply to an enforcement action taken pursuant to section 1-1-107 or 1-1.5-104 or to an enforcement action taken by a designated election official against an election judge for a violation of a statute, a rule promulgated by the secretary of state, or the election judge's oath.

(4) Upon conviction, a person who violates this section shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 433, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3127, § 23, effective March 1, 2022. **L. 2022:** Entire section amended, (HB 22-1273), ch. 324, p. 2291, § 1, effective June 2.

Editor's note: This section is similar to former §§ 1-13-109 and 1-30-108 as they existed prior to 1980.

1-13-702. Interfering with watcher.

Any person who intentionally interferes with any watcher while the watcher is discharging the watcher's duties set forth in section 1-7-108 (3) upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 433, § 1, effective January 1, 1981. **L. 2003:** Entire section amended, p. 1981, § 1, effective May 22. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3127, § 24, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-110 as it existed prior to 1980.

1-13-703. Tampering with statewide voter registration system, registration list, or pollbook.

(1) Any person who mutilates or erases any name, figure, or word in any registration list or pollbook; or who removes a registration list or pollbook or any part thereof from the place where it has been deposited with an intention to destroy the same, or to procure or prevent the election of any person, or to prevent any voter from voting; or who destroys any registration list or pollbook or part thereof commits a class 1 misdemeanor.

(2) Any person who knowingly accesses without authorization the statewide voter registration system commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 80: Entire article R&RE, p. 433, § 1, effective January 1, 1981. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 588, § 70, effective May 18. **L. 2021:** (1) amended, (SB 21-271), ch. 462, p. 3127, § 25, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-131 and 1-30-129 as they existed prior to 1980.

1-13-704. Unlawfully permitting to vote.

If at any election provided by law any judge of election knowingly and willfully permits any person to vote who is not entitled to vote at such election, such judge commits a class 1 misdemeanor.

Source: L. 80: Entire article R&RE, p. 433, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3128, § 26, effective March 1, 2022. **L. 2022:** Entire section amended, (SB 22-212), ch. 421, p. 2964, § 6, effective August 10.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

1-13-704.5. Voting by persons not entitled to vote - penalty.

(1) Any person voting in any election provided by law knowing that he or she is not entitled to vote in such election commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

Source: L. 2006, 1st Ex. Sess.: Entire section added, p. 19, § 1, effective July 31.

ANNOTATION

Law reviews. For article, "2006 Immigration Legislation in Colorado", see 35 Colo. Law. 79 (Oct. 2006).

1-13-705. Personating elector.

Any person who falsely personates any elector and votes at any election provided by law under the name of such elector commits a class 1 misdemeanor.

Source: L. 80: Entire article R&RE, p. 433, § 1, effective January 1, 1981. **L. 95:** Entire section amended, p. 853, § 85, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3128, § 27, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-136 and 1-30-122 as they existed prior to 1980.

1-13-706. Delivering and receiving ballots at polls.

(1) No voter shall receive an official ballot from any person except one of the judges of election having charge of the ballots, nor shall any person other than such judge deliver an official ballot to such voter.

(2) No person except a judge of election shall receive from any voter a ballot prepared for voting.

(3) Any voter who does not vote the ballot received by him or her shall return his or her ballot to the judge from whom he or she received the same before leaving the polling location; except that nothing in this section prohibits an elector from obtaining an original or replacement ballot pursuant to section 1-5-102.9 (3)(j).

(4) Each violation of the provisions of this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 433, § 1, effective January 1, 1981. **L. 2013:** (3) amended, (HB 13-1303), ch. 185, p. 747, § 118, effective May 10. **L. 2021:** (4) amended, (SB 21-271), ch. 462, p. 3128, § 28, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-139 and 1-30-114 (2) as they existed prior to 1980.

Cross references: In 2013, subsection (3) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-707. Inducing defective ballot.

Any person who causes any deceit to be practiced with intent to fraudulently induce a voter to deposit a defective ballot so as to have the ballot thrown out and not counted upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 434, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3128, § 29, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-133 as it existed prior to 1980.

1-13-707.5. Tampering with ballot box.

Any person who wilfully tampers with or who, except as provided by law, wilfully breaks open any ballot box, including a drop-off location receptacle, is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 2014: Entire section added, (SB 14-161), ch. 160, p. 566, § 26, effective May 9.

1-13-708. Tampering with voting equipment.

(1) Any person who, as determined by rules promulgated by the secretary of state in accordance with article 4 of title 24, accesses without authorization, tampers with, or facilitates the unauthorized access to or tampering with any electronic or electromechanical voting equipment or an election-night reporting system before, during, or after any election provided by law is guilty of a class 5 felony and, upon conviction thereof, shall be punished as provided in section 18-1.3-401.

(2) Any person who knowingly publishes or causes to be published passwords or other confidential information relating to a voting system shall immediately have their authorized access revoked and is guilty of a class 5 felony.

Source: L. 80: Entire article R&RE, p. 434, § 1, effective January 1, 1981. **L. 2004:** Entire section amended, pp. 1361, 1213, §§ 28, 108, effective May 28. **L. 2007:** Entire section amended, p. 1982, § 33, effective August 3. **L. 2022:** Entire section amended, (SB 22-153), ch. 322, p. 2283, § 16, effective June 2.

Editor's note: This section is similar to former § 1-13-132 as it existed prior to 1980.

Cross references: (1) For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

(2) For the short title ("Colorado Election Security Act") and the legislative declaration in SB 22-153, see sections 1 and 2 of chapter 322, Session Laws of Colorado 2022.

1-13-708.5. Elected officials not to handle electronic or electromechanical voting equipment or devices.

Any person who violates any provision of section 1-5-607 commits a class 1 misdemeanor.

Source: L. 96: Entire section added with relocations, p. 1764, § 50, effective July 1. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3128, § 30, effective March 1, 2022.

Editor's note: This section was formerly numbered as 1-5-607 (4).

1-13-709. Voting in wrong polling location. (Repealed)

Source: L. 80: Entire article R&RE, p. 434, § 1, effective January 1, 1981. **L. 95:** Entire section amended, p. 853, § 86, effective July 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 748, § 119, effective May 10. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3128, § 31, effective March 1, 2022. **L. 2023:** Entire section repealed, (SB 23-276), ch. 399, p. 2392, § 43, effective June 6.

Editor's note: Prior to its repeal, this section was similar to former §§ 1-13-135 and 1-30-128 as they existed prior to 1980.

ANNOTATION

Conduct prohibited by this section is sufficiently distinguishable from felony election statute to create two separate offenses, avoiding violation of equal protection clause. This section relates to voting or the offer to vote in a precinct in which defendant is not qualified to vote. Felony statute relates to actually voting by providing false information regarding place of residence. People v. Onesimo Romero, 746 P.2d 534 (Colo. 1987).

Voting in the wrong precinct is an unclassified misdemeanor, and trial court may not reclassify the offense as a petty offense but must apply the penalties and statute of limitation consistent with the

limits and constraints legislatively imposed by statute. People v. Onesimo Romero, 746 P.2d 534 (Colo. 1987).

1-13-709.5. Residence - false information - penalty.

Any person who votes by knowingly giving false information regarding the elector's place of present residence commits a class 5 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 96: Entire section added, p. 1764, § 51, effective July 1. **L. 2002:** Entire section amended, p. 1464, § 9, effective October 1. **L. 2014:** Entire section amended, (SB 14-161), ch. 160, p. 566, § 27, effective May 9.

Cross references: For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

1-13-709.6. Residence - conspiring to give false information - penalty.

Any person who knowingly aids or abets an elector in planning or committing the offense of knowingly giving false information regarding the elector's place of present residence described in section 1-13-709.5 commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

Source: L. 2014: Entire section added, (SB 14-161), ch. 160, p. 567, § 28, effective May 9.

1-13-710. Voting twice - penalty.

(1) (a) No voter shall, with the intent of voting more than once in an election:

(I) Cast more than one ballot;

(II) Offer to cast a ballot knowing that a ballot the voter previously returned was received; or

(III) During a federal election, vote in this state and another state.

(b) A voter who violates this subsection (1) upon conviction shall be punished as provided in section 1-13-111.

(2) Nothing in this section prohibits a voter from voting in a special district election as a property owner in accordance with article 13.5 of this title or part 8 of article 1 of title 32, C.R.S.

Source: L. 80: Entire article R&RE, p. 434, § 1, effective January 1, 1981. **L. 95:** Entire section amended, p. 853, § 87, effective July 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 748, § 120, effective May 10. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 589, § 71, effective May 18. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1667, § 68, effective June 21; (1) amended, (SB 21-271), ch. 462, p. 3129, § 32, effective March 1, 2022.

Editor's note: (1) This section is similar to former §§ 1-13-137 and 1-30-101 as they existed prior to 1980.

(2) Amendments to subsection (1) by SB 21-250 and SB 21-271 were harmonized, effective March 1, 2022.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Casting the first vote is an "act in furtherance of" committing the offense of voting twice, so venue is proper in both the county where the first vote was cast and the county where the offense actually occurred. People v. Shackley, 248 P.3d 1204 (Colo. 2011).

1-13-711. Interference with voter while voting.

Any person who interferes with any voter who is inside the immediate voting area, within one hundred feet of any building in which a polling location or drop-off location is located, or within one hundred feet of a drop box or is marking a ballot or operating a voting device or electronic voting device at any election provided by law upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 434, § 1, effective January 1, 1981. **L. 2004:** Entire section amended, p. 1361, § 29, effective May 28. **L. 2021:** Entire section amended, (SB 21-

271), ch. 462, p. 3129, § 33, effective March 1, 2022. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1514, § 61, effective June 1.

Editor's note: This section is similar to former § 1-13-138 as it existed prior to 1980.

Cross references: For the legislative declaration contained in the 2004 act amending this section, see section 1 of chapter 334, Session Laws of Colorado 2004.

1-13-712. Disclosing or identifying vote.

(1) (a) No voter shall place any mark upon his or her ballot by means of which it can be identified as the one voted by him or her, and no other mark shall be placed on the ballot by any person to identify it after it has been prepared for voting.

(b) Any voter may show his or her voted ballot to any other person as long as the disclosure is not undertaken in furtherance of any election violation proscribed in this article 13.

(c) Any voter who makes available an image of the voter's own ballot through electronic means after it is prepared for voting is deemed to have consented to the transmittal of that image.

(d) The ability of a voter to disclose his or her voted ballot as described in this subsection (1) at a voter service and polling center or at any other location at which votes are being tabulated is subject to the power of a county clerk and recorder to monitor activity at such voter service and polling center or other location, including placing reasonable restrictions on the use of photography in such settings or imposing other restrictions on activity in such settings as the county clerk and recorder finds necessary, to ensure the fair and efficient conduct of elections.

(2) No person shall endeavor to induce any voter to show how he marked his ballot.

(3) No election official, watcher, or person shall reveal to any other person the name of any candidate for whom a voter has voted or communicate to another his opinion, belief, or impression as to how or for whom a voter has voted.

(4) Any person who violates any provision of this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 434, § 1, effective January 1, 1981. **L. 2017:** (1) amended, (HB 17-1014), ch. 42, p. 123, § 1, effective August 9. **L. 2021:** (4) amended, (SB 21-271), ch. 462, p. 3129, § 34, effective March 1, 2022.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

ANNOTATION

Law reviews. For article, "Colorado Election Law Update", see 46 Colo. Law. 53 (Aug.-Sept. 2017).

1-13-713. Intimidation.

It is unlawful for any person directly or indirectly, by himself or herself or by any other person in his or her behalf, to recklessly impede, prevent, make a credible threat, menace, intimidate, or otherwise interfere with the free exercise of the elective franchise of any elector, including any elector who is delivering no more than ten mail ballots to a drop box or drop-off location designated by the county clerk and recorder or designated election official, or to compel, induce, or prevail upon any elector either to give or refrain from giving the elector's vote at any election provided by law or to give or refrain from giving the elector's vote for any particular person or measure at any such election. Each such offense is a class 1 misdemeanor.

Source: L. 80: Entire article R&RE, p. 435, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3129, § 35, effective March 1, 2022. **L. 2026:** Entire section amended, (HB 26-1113), ch. 267, p. 1514, § 62, effective June 1.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For criminal extortion (formerly criminal intimidation), see § 18-3-207.

1-13-714. Electioneering - removing and return of ballot - definition.

(1) (a) A person shall not do any electioneering on the day of any election, or during the time when voting is permitted for any election, within any polling location or in any public street or room or in any public manner within one hundred feet of any building in which a polling location or drop-off location is located, as publicly posted by the designated election official, or within one hundred feet of a drop box.

(b) (I) As used in this section, the term "electioneering" includes:

(A) Campaigning for or against any candidate who is on the ballot or any ballot issue or ballot question that is on the ballot.

(B) The distribution or display of campaign posters, signs, or other campaign materials or apparel, including materials or apparel promoting or opposing a candidate or displaying a candidate's name, likeness, or campaign slogan.

(C) Soliciting signatures for a candidate petition, a recall petition, or a petition to place a ballot issue or ballot question on a subsequent ballot.

(II) "Electioneering" does not include a respectful display of the American flag.

(c) Nothing in this section limits or prohibits the incidental display of buttons, shirts, hats, or other apparel that support various causes or political issues by individuals who are traveling through corridors subject to the one-hundred-foot electioneering restriction specified in subsection (1)(a) of this section seeking access to areas other than polling locations on campuses of institutions of higher education.

(2) Except as necessary for ballot counting, no person may remove any official ballot from the polling location before the closing of the polls.

(3) Any person who violates any provision of this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 435, § 1, effective January 1, 1981. **L. 94:** Entire section amended, p. 1179, § 72, effective July 1. **L. 95:** Entire section amended, p. 853, § 88, effective July 1. **L. 2006:** Entire section amended, p. 2035, § 23, effective June 6. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 748, § 121, effective May 10. **L. 2016:** Entire section amended, (SB 16-142), ch. 173, p. 589, § 72, effective May 18. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1667, § 69, effective June 21; (3) amended, (SB 21-271), ch. 462, p. 3129, § 36, effective March 1, 2022. **L. 2023:** (1)(c) amended, (SB 23-276), ch. 399, p. 2393, § 44, effective June 6. **L. 2025:** (1)(a) amended, (SB 25-001), ch. 178, p. 746, § 8, effective August 6.

Editor's note: This section is similar to former §§ 1-13-127 and 1-30-114 (1) as they existed prior to 1980.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-715. Liquor in or near voter service and polling center.

(1) It is unlawful for any election official or other person to introduce into any polling location, or to use therein, or to offer to another for use therein, at any time while any election is in progress or the result thereof is being ascertained by the counting of the ballots, any intoxicating malt, spirituous, or vinous liquors.

(2) It is unlawful for any officer or board of officers of any county or any municipality, whether incorporated under general law or by special charter, who may at any time be by law charged with the duty of designating polling locations for the holding of any general or congressional election therein, to select therefor a room wherein any intoxicating malt, spirituous, or vinous liquors are usually sold for consumption on the premises.

(3) Any person who violates any provision of this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 435, § 1, effective January 1, 1981. **L. 83:** (2) amended, p. 358, § 31, effective July 1. **L. 96:** (2) amended, p. 1765, § 52, effective July 1. **L. 2013:** (1) and (2) amended, (HB 13-1303), ch. 185, p. 748, § 122, effective May 10. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3129, § 37, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-128 and 1-30-115 as they existed prior to 1980.

Cross references: In 2013, subsections (1) and (2) were amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-716. Destroying, removing, or delaying delivery of election records.

(1) No person shall willfully destroy, deface, or alter any ballot or any election records or willfully delay the delivery of any such ballots or election records, or take, carry away, conceal, or remove any ballot, ballot box, or election records from the polling location or drop-off location or from the possession of a person authorized by law to have the custody thereof, or aid, counsel, procure, advise, or assist any person to do any of the aforesaid acts.

(2) No election official who has undertaken to deliver the official ballots and election records to the county clerk and recorder shall neglect or refuse to do so within the time prescribed by law or shall fail to account fully for all official ballots and other records in his charge. Informality in the delivery of the ballots and election records shall not invalidate the vote of any precinct if such records are delivered prior to the canvassing of the votes by the county board of canvassers.

(3) Any person who violates any provision of this section commits a class 1 misdemeanor.

Source: L. 80: Entire article R&RE, p. 435, § 1, effective January 1, 1981. **L. 2013:** (1) amended, (HB 13-1303), ch. 185, p. 749, § 123, effective May 10. **L. 2021:** (3) amended, (SB 21-271), ch. 462, p. 3130, § 38, effective March 1, 2022.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: In 2013, subsection (1) was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-717. Penalty for destruction of supplies.

Any person who, during an election, willfully defaces, tears down, removes, or destroys any card of instruction or sample ballot printed or posted for the instruction of voters or who, during an election, willfully removes or destroys any of the supplies or conveniences furnished to enable a voter to prepare the voter's ballot or willfully hinders the voting of others upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 436, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3130, § 39, effective March 1, 2022.

Editor's note: This section is similar to former § 1-30-112 as it existed prior to 1980.

1-13-718. Release of information concerning count.

Any election official, watcher, or other person who releases information concerning the count of ballots cast at polling locations or of mail-in or mail voters' ballots prior to 7 p.m. on the day of the election upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 436, § 1, effective January 1, 1981. **L. 93:** Entire section amended, p. 1436, § 122, effective July 1. **L. 2007:** Entire section amended, p. 1797, § 66, effective June 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 749, § 124, effective May 10. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3130, § 40, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-144 as it existed prior to 1980.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Where there is a gross disregard of the procedure and formalities in the conduct of elections, whether permitted by design, through ignorance, or negligence, the returns should be rejected. People v. Lindsey, 80 Colo. 465, 253 P. 465 (1927).

And it is not necessary that actual fraud should be committed. People v. Lindsey, 80 Colo. 465, 253 P. 465 (1927).

But mere disclosure of early returns must affect result to set aside election. While it is a misdemeanor to disclose to anyone the comparative standing of candidates or questions being voted upon during an election while the polls are still open, an election will not be set aside for

this reason alone unless this fact has been shown to affect the result of the election. Montrose v. Niles, 124 Colo. 535, 238 P.2d 875 (1951).

1-13-719. Employer's unlawful acts.

(1) It is unlawful for any employer, whether corporation, association, company, firm, or person, or any officer or agent of such employer:

(a) In any manner to control the action of his employees in casting their votes for or against any person or measure at any precinct caucus, assembly, or convention; or

(b) To refuse to an employee the privilege of taking time off to vote as provided by section 1-7-102, or to subject an employee to a penalty or reduction of wages because of the exercise of such privilege, or to violate any of the provisions of section 1-7-102 in any other way; or

(c) In paying his employees the salary or wages due them, to enclose their pay in pay envelopes upon which there is written or printed any political mottoes, devices, or arguments containing threats, express or implied, intended or calculated to influence the political opinions, views, or actions of such employees; or

(d) Within ninety days of any election provided by law, to put up or otherwise exhibit in his factory, workshop, mine, mill, boardinghouse, office, or other establishment or place where his employees may be working or be present in the course of such employment any handbill, notice, or placard containing any threat, notice, or information that, if any particular ticket or candidate is elected, work in his place or establishment will cease in whole or in part, or his establishment will be closed, or the wages of his workmen will be reduced or containing other threats, express or implied, intended or calculated to influence the political opinions or actions of his employees.

(2) Any person who violates any of the provisions of subsection (1) of this section upon conviction shall be punished as provided in section 1-13-111. In addition, any corporation violating this section shall forfeit its charter and right to do business in this state.

Source: L. 80: Entire article R&RE, p. 436, § 1, effective January 1, 1981. **L. 2021:** (2) amended, (SB 21-271), ch. 462, p. 3130, § 41, effective March 1, 2022.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

ANNOTATION

Law reviews. For article, "Punitive Damages in Wrongful Discharge Cases", see 15 Colo. Law. 658 (1986).

1-13-720. Unlawfully giving or promising money or employment or facilitating the trading of votes.

(1) It is unlawful for any person, directly or indirectly, individually or through any other person:

(a) To pay, loan, or contribute, or offer or promise to pay, loan, or contribute, any money or other valuable consideration to or for any elector, or to or for any other person, to induce such elector to vote or refrain from voting at any election provided by law or to induce any elector to vote or refrain from voting at such election for any particular person or to induce such elector to go to the polls or remain away from the polls at such election or on account of such elector having voted or refrained from voting for any particular person or issue or having gone to the polls or remained away from the polls at such election;

(b) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election provided by law or to knowingly pay, or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money wholly or partially expended in bribery at any such election;

(c) To give, offer, or promise any office, place, or employment or to promise, procure, or endeavor to procure any office, place, or employment to or for any elector, or to or for any other person, in order to induce such elector to vote or refrain from voting at any election provided by law or to induce any elector to vote or refrain from voting at such election for any particular person or issue; or

(d) To facilitate the trading of votes between an elector in the state or a person in another state in exchange for the other person's vote for or against a particular candidate, ballot issue, or ballot question. A violation of this subsection (1)(d) is a petty offense.

(2) Except for the offense set forth in subsection (1)(d) of this section, each offense set forth in subsection (1) of this section is a class 1 misdemeanor.

Source: L. 80: Entire article R&RE, p. 436, § 1, effective January 1, 1981. **L. 2018:** IP(1) and (2) amended and (1)(d) added, (SB 18-076), ch. 202, p. 1315, § 1, effective September 1. **L. 2021:** (1)(d) and (2) amended, (SB 21-271), ch. 462, p. 3130, § 42, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-122 and 1-30-102 as they existed prior to 1980.

1-13-721. Receipt of money or jobs.

(1) A person who directly or indirectly, by himself or herself or through any other person shall not:

(a) Before or during an election provided by law, to receive, agree to accept, or contract for any money, gift, loan, or other valuable consideration, office, place, or employment, for himself or any other person, for voting or agreeing to vote, or for going or agreeing to go to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote or refraining or agreeing to refrain from voting for any particular person or measure at any election provided by law;

(b) During or after an election provided by law, to receive any money or other valuable thing on account of himself or any other person for voting or refraining from voting at such election, or on account of himself or any other person for voting or refraining from voting for any particular person at such election, or on account of himself or any other person for going to the polls or remaining away from the polls at such election, or on account of having induced any person to vote or refrain from voting for any particular person or measure at such election.

(2) A person who violates subsection (1) of this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 437, § 1, effective January 1, 1981. **L. 82:** IP(1) amended, p. 220, § 1, effective February 19. **L. 2021:** IP(1) amended and (2) added, (SB 21-271), ch. 462, p. 3131, § 43, effective March 1, 2022.

Editor's note: This section is similar to former §§ 1-13-123 and 1-30-103 as they existed prior to 1980.

Cross references: For the penalty for offenses denominated by this code as misdemeanors, see § 1-13-111.

ANNOTATION

Law reviews. For note, "Voting on Company Time", see 20 Rocky Mt. L. Rev. 417 (1948).

1-13-722. Defacing or removing abstract of votes. (Repealed)

Source: L. 80: Entire article R&RE, p. 437, § 1, effective January 1, 1981. **L. 99:** Entire section amended, p. 492, § 23, effective July 1; entire section amended, p. 616, § 1, effective August 4. **L. 2013:** Entire section repealed, (HB 13-1303), ch. 185, p. 752, § 138, effective May 10.

Editor's note: This section was similar to former § 1-13-149 as it existed prior to 1980.

Cross references: In 2013, this section was repealed by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-723. Penalty for neglect of duty - destruction of ballots - breaking seal.

(1) Every officer upon whom any duty is imposed by any election law who violates the officer's duty or who neglects or omits to perform the same upon conviction shall be punished as provided in section 1-13-111.

(2) Any official or person, except one authorized by law, who breaks or loosens a seal on a ballot or a ballot box with the intent to disclose or learn the number of such ballot or ballot box upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 438, § 1, effective January 1, 1981. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3131, § 44, effective March 1, 2022.

Editor's note: The provisions of this section are similar to provisions of several former sections as they existed prior to 1980. For a detailed comparison, see the comparative tables located in the back of the index.

1-13-724. Unlawfully carrying a firearm at a polling location or drop box - exception - legislative declaration.

(1) (a) The general assembly finds and declares that:

(I) The Colorado constitution guarantees free and open elections;

(II) All Coloradans should be able to exercise their fundamental right to vote freely and safely;

(III) Firearms in or near a polling location or drop box may intimidate, threaten, or coerce voters, affecting Coloradans' exercise of their voting rights; and

(IV) Due in part to such concerns, states have regulated firearms at polling locations since the nineteenth century.

(b) The general assembly further declares that:

(I) Regulating firearms at polling locations and drop boxes is substantially related to the general assembly's interest in ensuring all Colorado voters have the right to vote in an environment that is safe from gun violence and free from intimidation;

(II) Nothing in this "Vote Without Fear Act" is intended to shield a person from prosecution for a violation of section 1-13-713; and

(III) The general assembly further finds that security personnel contracted for the protection of any location in Colorado that includes a polling location or drop box shall take the utmost care to provide a safe voting environment, while still ensuring that their presence and behavior does not have an intimidating, threatening, or coercive effect on a voter who is exercising the voter's right to vote.

(2) The short title of this section is the "Vote Without Fear Act".

(3) (a) It is unlawful for any person to carry a firearm, as defined in section 18-1-901 (3)(h), within any polling location, or within one hundred feet of a drop box or any building in which a polling location is located, as publicly posted by the designated election official, on the day of any election or during the time when voting is permitted for any election. The designated election official responsible for any central count facility, polling location, or drop box involved in that election cycle shall visibly place a sign notifying persons of the one-hundred-foot no carry zone for firearms required pursuant to this section.

(b) It is unlawful for any person to carry a firearm, as defined in section 18-1-901 (3)(h), within a central count facility, or within one hundred feet of any building in which a central count facility is located, during any ongoing election administration activity related to an active election conducted by the designated election official, as publicly posted by the designated election official.

(c) This subsection (3) does not apply to:

(I) A person who carries a firearm that the person owns on the person's private property that is within the one-hundred-foot buffer zone or while traveling directly between the person's private property and a place outside the one-hundred-foot buffer zone;

(II) A uniformed security guard employed by a contract security agency, as defined in section 24-33.5-415.4, acting within the scope of the authority granted by and in the performance of a contractual agreement for the provision of security services with a person or entity that owns or controls the facility, building, or location subject to this section; or

(III) Security personnel described in section 24-33.5-216.7 (5) while engaged in the security personnel's official duties.

(4) This section does not apply to a peace officer, as described in section 16-2.5-101, acting within the scope of the peace officer's authority and in the performance of the peace officer's lawful duties, except as otherwise provided in sections 1-13-713 and 1-13-726.

(5) Any person who violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than three hundred sixty-four days, or by both fine and imprisonment; except that, for a first offense, the fine shall not exceed two hundred fifty dollars and the sentence of imprisonment shall not exceed one hundred twenty days.

Source: L. 2022: Entire section added, (HB 22-1086), ch. 50, p. 237, § 1, effective March 30. **L. 2024:** (1)(a)(III), (1)(b)(I), (3)(a), (3)(b), and (3)(c) amended, (SB 24-131), ch. 301, p. 2048, § 4, effective July 1. **L. 2026:** (4) amended, (HB 26-1113), ch. 267, p. 1515, § 63, effective June 1.

Cross references: For the legislative declaration in SB 24-131, see section 1 of chapter 301, Session Laws of Colorado 2024.

1-13-725. False slate of presidential electors - penalties.

(1) (a) A person who knowingly enters into an agreement, including a written agreement, oral agreement, or agreement using electronic communications, with one or more individuals to commit offering of a false instrument for recording or forgery commits conspiring to commit offering of a false instrument for recording or forgery.

(b) A person who knowingly signs, files, transmits, or records with the secretary of state, the archivist of the United States, the president of the United States senate, the United States congress, or a Colorado federal district court judge a list of presidential electors who voted for

candidates for president and vice president of the United States, or their successors, who did not receive the highest number of votes in the state at a general election at which the offices of president and vice president of the United States were contested commits offering of a false instrument for recording as set forth in section 18-5-114. If the interstate compact, "Agreement Among the States to Elect the President by National Popular Vote", described in part 40 of article 60 of title 24, is in effect and the state's electoral votes are awarded to the winner of the national popular vote, the provisions of this subsection (1)(b) shall apply to individuals who sign, file, transmit, or record a list of presidential electors who voted for candidates for president and vice president of the United States, or their successors, who the secretary of state did not designate as the national popular vote winner.

(c) A person who has not been elected as a presidential elector in a general election and who knowingly votes as a presidential elector for candidates for president and vice president of the United States, or their successors, who did not receive the highest number of votes in the state at a general election at which the offices of president and vice president of the United States were contested, or who inputs information into a form, certificate, or other paper or document required of presidential electors that was not provided by the secretary of state pursuant to section 1-4-304, commits forgery as set forth in section 18-5-102. If the interstate compact, "Agreement Among the States to Elect the President by National Popular Vote", described in part 40 of article 60 of title 24, is in effect and the state's electoral votes are awarded to the winner of the national popular vote, the provisions of this subsection (1)(c) shall apply to a person who knowingly votes as a presidential elector for candidates for president and vice president of the United States, or their successors, who the secretary of state did not designate as the national popular vote winner.

(d) For purposes of this section, a person who has not been elected as a presidential elector in a general election and who knowingly and falsely swears or attests to the oath required by law for presidential electors under section 1-4-304 (1) commits perjury.

(e) For purposes of this section, a person who has not been elected as a presidential elector in a general election and who induces another person who has not been elected as a presidential elector in a general election to knowingly and falsely swear or attest to the oath required by law for presidential electors under section 1-4-304 (1) commits subornation of perjury.

(2) (a) Upon conviction for conspiring to offer a false instrument for recording or forgery, as set forth in subsection (1)(a) of this section, offering a false instrument for recording, as set forth in subsection (1)(b) of this section, or forgery, as set forth in subsection (1)(c) of this section, the court shall impose a fine of not more than ten thousand dollars on the defendant.

(b) If the defendant is convicted of perjury as described in subsection (1)(d) of this section, or subornation of perjury as described in subsection (1)(e) of this section, the court shall order that the defendant is ineligible to be a member of the general assembly and incapable of holding

any office of trust or profit in the state, as provided by section 4 of article XII of the state constitution, and impose a fine of not more than ten thousand dollars on the defendant.

Source: L. 2024: Entire section added, (HB 24-1150), ch. 115, p. 372, § 1, effective July 1. **L. 2026:** (1)(b) and (1)(c) amended, (HB 26-1113), ch. 267, p. 1515, § 64, effective June 1.

1-13-726. Intimidation of voters or election officials - civil enforcement - short title - definitions.

(1) **Short title.** The short title of this section is the "Freedom From Intimidation in Elections Act".

(2) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Firearm" has the same meaning as set forth in section 18-1-901 (3)(h).

(b) "Imitation firearm" means an object or device reasonably capable of being mistaken for a firearm or for a weapon that uses compressed air or another gas to fire a projectile.

(c) "Voting" includes all actions necessary to make a vote effective in any primary, special, odd-year, or general election, including, but not limited to, registration or other actions required by law as a prerequisite to voting, casting a ballot by any method permitted by law, and having a ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and ballot issues and ballot questions for which votes are received in an election.

(3) **Election-related intimidation prohibited.** An individual, whether acting under color of law or otherwise, shall not recklessly intimidate, make a credible threat, or coerce or attempt to recklessly intimidate, make a credible threat, or coerce, directly or indirectly, any individual for any of the following:

(a) Voting or attempting to vote;

(b) Urging or aiding any individual to vote or attempt to vote, whether as part of official election administration activity or otherwise;

(b.5) Delivering no more than ten mail ballots to a drop box or drop-off location designated by the county clerk and recorder or designated election official;

(c) Exercising any powers or duties to administer elections, including vote counting, canvassing, and election certification pursuant to the "Uniform Election Code of 1992"; or

(d) The individual's status as a past or present participant in the administration of elections.

(4) **Presumption of engaging in election-related intimidation.**

(a) An individual who carries a visible firearm, imitation firearm, or toy firearm while interacting with or observing any of the activities described in subsection (3) of this section is presumed, in the absence of any affirmative showing to the contrary by a preponderance of the evidence, to have engaged in intimidation prohibited by this section.

(b) The presumption specified in subsection (4)(a) of this section does not apply to a law enforcement officer acting within the scope of the officer's official duties or to a uniformed security guard employed by a contract security agency, as defined in section 24-33.5-415.4, acting within the scope of the authority granted by and in the performance of a contractual agreement for the provision of security services with a person or entity that owns or controls the facility, building, or location subject to this section. Accordingly, a plaintiff must allege more than such a law enforcement officer's or uniformed security guard's possession of a holstered firearm to state a claim under this section; except that a court may consider a law enforcement officer's or uniformed security guard's possession of a firearm in determining whether the law enforcement officer or uniformed security guard violated subsection (3) of this section.

(5) **Right to enforce.**

(a) Any aggrieved individual has the right to enforce subsection (3) of this section in a suit at law or in equity, or both. A prevailing plaintiff in any such action is entitled to the recovery of reasonable attorney's fees, reasonable expert fees, reasonable litigation expenses, and any other fees or costs that are deemed appropriate by a court of competent jurisdiction.

(b) An election official, designated election official, or the secretary of state has the right to enforce the provisions of subsection (3) of this section and may institute an action for equitable relief on behalf of an aggrieved individual who is in the election official's, designated election official's, or secretary of state's jurisdiction or is eligible to vote in such jurisdiction.

(c) The attorney general has the right to enforce subsection (3) of this section and may institute for the state, or in the name of the state, an action for equitable relief, including an application for a temporary or permanent injunction, restraining order, or other order.

(d) A suit brought by an election official, designated election official, or the secretary of state pursuant to subsection (5)(b) of this section or by the attorney general pursuant to subsection (5)(c) of this section to enforce subsection (3) of this section does not preclude a contemporaneous private suit by an aggrieved individual to enforce subsection (3) of this section.

(e) A district court that has jurisdiction over any suit brought pursuant to this section must expedite consideration of the suit and conduct a forthwith hearing thereon. A district court may order such equitable relief as is warranted by the facts and applicable law and do so on an emergency basis if warranted.

(f) If, at the time of filing the complaint, an individual defendant cannot be identified by name because the individual was wearing a mask or other disguise or refused to provide identifying information including the name of the individual's employer, whether an organization or government agency, the plaintiff may name the unknown individual and the individual's employer as defendants in the complaint filed pursuant to this section.

(6) **Relief.**

(a) In a suit to enforce the provisions of subsection (3) of this section, a court may grant relief enjoining a defendant from the use or carrying of firearms beyond the areas described in section 1-13-724 or 18-12-105.3. This section does not limit the court's authority to grant any other just and equitable relief.

(b) To prevail in a suit to enforce subsection (3) of this section, a plaintiff is not required to prove that a defendant intended to intimidate, threaten, or coerce any individual, except to prove that a defendant's acts constituted a reckless attempt to, directly or indirectly, intimidate, threaten, or coerce a person in voting or to refrain from voting or in delivering no more than ten ballots to a drop box or drop-off location designated by a county clerk or designated election official. A court may nonetheless consider evidence of intent in determining the appropriate relief and shall retain jurisdiction over any attempts by the named defendants to intimidate, threaten, or coerce voting at the location or locations identified in a suit through the date of the relevant election.

(7) **Exceptions.** This section does not apply to an enforcement action taken pursuant to section 1-1-107 or 1-1.5-104 or to an enforcement action taken by a designated election official against an election judge for a violation of a statute, a rule promulgated by the secretary of state, or the election judge's oath.

Source: L. 2025: Entire section added, (HB 25-1225), ch. 179, p. 765, § 2, effective May 12. **L. 2026:** IP(3) and (6)(b) amended and (3)(b.5), (5)(e), and (5)(f) added, (HB 26-1113), ch. 267, p. 1516, § 65, effective June 1.

Cross references: For the legislative declaration in HB 25-1225, see section 1 of chapter 179, Session Laws of Colorado 2025.

PART 8

OFFENSES - MAIL VOTING AND VOTING BY NEW RESIDENTS

1-13-801. Mailing other materials with mail ballot.

It is unlawful for any county clerk and recorder to deliver or mail to a registered elector, as a part of or in connection with the mail ballot, anything other than the voting material as provided in article 7.5 of this title 1. Any person who violates this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 438, § 1, effective January 1, 1981. **L. 93:** Entire section amended, p. 1436, § 123, effective July 1. **L. 2007:** Entire section amended, p. 1797, § 67, effective June 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 749, § 125, effective May 10. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3131, § 45, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-145 as it existed prior to 1980.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-802. Delivery of a mail ballot outside county clerk and recorder's office.

No county clerk and recorder shall make personal delivery of any mail ballot to an elector unless such delivery occurs within the confines of the official office of such county clerk and recorder, except as otherwise provided in section 1-7.5-113. Any delivery contrary to this section renders void the ballot to which it relates. Any county clerk and recorder who violates this section upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 438, § 1, effective January 1, 1981. **L. 93:** Entire section amended, p. 1436, § 124, effective July 1. **L. 96:** Entire section amended, p. 1774, § 80, effective July 1. **L. 2007:** Entire section amended, p. 1797, § 68, effective June 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 749, § 126, effective May 10. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3131, § 46, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-146 as it existed prior to 1980.

Cross references: In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

1-13-803. Offenses relating to voting by mail ballot.

Any election official or other person who knowingly violates article 7.5 or 13.5 of this title 1 relative to the casting of mail ballots or who aids or abets fraud in connection with any vote cast, to be cast, or attempted to be cast by a mail voter upon conviction shall be punished as provided in section 1-13-111.

Source: L. 80: Entire article R&RE, p. 438, § 1, effective January 1, 1981. **L. 93:** Entire section amended, p. 1436, § 125, effective July 1. **L. 95:** Entire section amended, p. 854, § 89, effective July 1. **L. 2007:** Entire section amended, p. 1797, § 69, effective June 1. **L. 2013:** Entire section amended, (HB 13-1303), ch. 185, p. 749, § 127, effective May 10. **L. 2014:** Entire section amended, (HB 14-1164), ch. 2, p. 74, § 43, effective February 18. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3131, § 47, effective March 1, 2022.

Editor's note: This section is similar to former § 1-13-148 as it existed prior to 1980.

Cross references: (1) In 2013, this section was amended by the "Voter Access and Modernized Elections Act". For the short title and the legislative declaration, see sections 1 and 2 of chapter 185, Session Laws of Colorado 2013.

(2) For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

1-13-804. Duty to report lost, stolen, or late ballots - penalty.

Any person responsible for preparing, issuing, transporting, or mailing ballots who has personal knowledge that mail ballots under that person's care have been either lost or stolen or will, for any reason, not be timely delivered to electors, shall report the issue to the county clerk

and recorder. Any person who knowingly and willfully fails to report as required by this section upon conviction shall be punished as provided in section 1-13-111. This section shall not apply to election judges, staff of the county clerk and recorder, or individual United States postal workers.

Source: L. 2020: Entire section added, (HB 20-1313), ch. 260, p. 1255, § 4, effective September 14. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3132, § 48, effective March 1, 2022.

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(Reserved)

ARTICLE 13.5

Colorado Local Government Election Code

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PART 1

DEFINITIONS AND GENERAL PROVISIONS

1-13.5-101. Short title.

This article shall be known and may be cited as the "Colorado Local Government Election Code".

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 5, § 6, effective February 18.

1-13.5-102. Applicability of article - legislative intent.

(1) This article applies only to nonpartisan elections not coordinated by county clerk and recorders that are conducted by a local government; except that nothing prohibits the governing body of a local government from utilizing any requirements and procedures of the "Uniform Election Code of 1992", articles 1 to 13 of this title, in accordance with section 1-13.5-106.

(2) It is the general assembly's intent that the "Uniform Election Code of 1992" continue to govern coordinated elections.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 5, § 6, effective February 18.

1-13.5-103. Definitions.

As used in this article 13.5, unless the context otherwise requires:

(1) "Absentee voter" means an eligible elector who requests in writing that the designated election official mail a ballot to either the elector's deliverable mailing address or to another address designated by the elector for the purpose of voting by mail.

(1.5) "Affidavit" means a sworn statement in writing, including a self-affirmation.

(2) "Designated election official" means the person designated by the governing body of a local government or by court order to supervise election duties.

(3) "Electronic voting system" means a system in which an elector votes using a device by which votes are recorded electronically, including a touchscreen system.

(4) "Eligible elector" means a person who meets the specific requirements for voting at a specific election conducted under this article or for a specific candidate, ballot question, or ballot issue.

(5) "Issue committee" has the meaning set forth in section 1-45-103.

(6) "Local government" means any district, business improvement district, special district created pursuant to title 32, C.R.S., authority, or political subdivision of the state, authorized by law to conduct an election. "Local government" does not include a county, school district, regional transportation district, or municipality as defined in section 31-1-101 (6), C.R.S.

(7) "Pollbook" means the list of eligible electors who are permitted to vote at a polling place or by mail ballot at an election conducted pursuant to this article.

(8) "Polling place" means a place established for holding elections conducted under this article.

(9) "Property owners list" means the list of property owner names and addresses prepared by the county assessor in accordance with section 1-13.5-204 or 1-13.5-1105 (2)(a) and (2)(b).

(10) "Registration list" means the list of registered electors of each local government, as prepared by the county clerk and recorder for the county in which the local government is located or as obtained through state registration records in accordance with section 1-13.5-203.

(11) "Special district" means any public entity, as defined in section 24-10-103, C.R.S., that is authorized by law to hold an election; except that the term does not include a county, a municipality as defined in section 31-1-101, C.R.S., or a school district as defined in section 22-30-103, C.R.S.

(12) "Voter" means an eligible elector who voted in the most recent election conducted pursuant to this article.

(13) "Voting machine" means any device fulfilling the requirements for voting machines set forth in part 4 of article 7 of this title regarding its use, construction, procurement, and trial.

(14) "Watcher" means a registered elector of the local government whose name is submitted to the designated election official and certified by the designated election official to the appropriate election judges pursuant to section 1-13.5-602.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 6, § 6, effective February 18. **L. 2016:** (1.5) added, (HB 16-1442), ch. 313, p. 1266, § 1, effective August 10. **L. 2021:** IP and (9) amended, (SB 21-160), ch. 133, p. 536, § 1, effective September 7.

1-13.5-104. Acts and elections conducted pursuant to provisions that refer to qualified electors.

Any elections, and any acts relating thereto, carried out under law that were conducted prior to July 1, 1987, pursuant to provisions that referred to a qualified elector rather than an eligible elector and that were valid when conducted are deemed and held to be legal and valid in all respects.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 7, § 6, effective February 18.

1-13.5-105. Acts legal and valid.

Acts and elections conducted pursuant to provisions that refer to registered electors, any elections, and any acts relating to those elections carried out under law that were conducted prior to July 1, 1992, and that were valid when conducted are held to be legal and valid in all respects.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 7, § 6, effective February 18.

1-13.5-106. Applicability of the "Uniform Election Code of 1992".

(1) Any local government may provide by resolution that it will utilize all or part of the requirements and procedures of the "Uniform Election Code of 1992", articles 1 to 13 of this title, in lieu of all or portions of this article with respect to any election. Absent such resolution, this article applies.

(2) All provisions of the "Uniform Election Code of 1992" not in conflict with this article 13.5 apply to local government elections; except that:

(a) Elections offenses and penalties described by parts 2 and 3 of article 13 of this title 1 do not apply to elections authorized under this article 13.5;

(b) Except as provided in subsection (2)(c) of this section, recall elections of local government officers must be conducted pursuant to part 5 of article 4 of title 31; and

(c) Recall elections of directors of special districts created pursuant to title 32 and directors of business improvement districts who were elected pursuant to section 31-25-1209 (1)(d) must be conducted pursuant to part 9 of article 1 of title 32.

(3) It is the intent of the general assembly that the general provisions of this article not supersede or supplant specific provisions of law.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 7, § 6, effective February 18; (2) amended, (SB 14-158), ch.170, p. 623, § 14, effective May 9. **L. 2016:** (2) amended, (SB 16-189), ch. 210, p. 754, § 5, effective June 6. **L. 2018:** (2) amended, (HB 18-1268), ch. 200, p. 1306, § 4, effective May 4.

Cross references: For the legislative declaration in SB 14-158, see section 1 of chapter 170, Session Laws of Colorado 2014.

1-13.5-107. Computation of time.

(1) Calendar days shall be used in all computations of time made under this article.

(2) In computing time for any act or event to be done before any local government election, the first day is excluded, and the last, or election, day is included. Saturdays, Sundays, and legal holidays are included, but, if the time for any act to be done or the last day of any period is a Saturday, Sunday, or a legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 7, § 6, effective February 18. **L. 2021:** (2) amended, (SB 21-160), ch. 133, p. 536, § 2, effective September 7.

1-13.5-108. Powers of designated election official.

(1) Except as otherwise provided in this article, the designated election official shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this article.

(2) All powers and authority granted to the designated election official by this article may be exercised by a deputy designated election official in the absence of the designated election official or in the event the designated election official is unable to perform the duties.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 8, § 6, effective February 18.

1-13.5-109. Construction.

Substantial compliance with the provisions or intent of this article is all that is required for the proper conduct of an election to which this article applies.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 8, § 6, effective February 18.

1-13.5-110. Special elections.

Special elections must be held on such date as may be provided by law by the local government calling the special election.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 8, § 6, effective February 18.

1-13.5-111. Time for holding elections for special districts - type of election - manner of election - notice.

(1) Except as otherwise provided in subsection (4) of this section, regular special district elections must be held on the Tuesday succeeding the first Monday of May in every odd-numbered year.

(2) Special elections may be held only on the first Tuesday after the first Monday in February, May, October, or December of any year; except that ballot issue elections may be held only on the date of a state general election, biennial local district election, or on the first Tuesday in November of odd-numbered years. A ballot issue election that is not part of an organizational election must be conducted either as part of a coordinated election or in accordance with part 11 of this article.

(3) Any special district election ordered pursuant to article 1 of title 32, C.R.S., by the district court having jurisdiction over such existing or proposed special district must be held on the date ordered by the court and conducted in accordance with this article.

(4) Whenever the date of a regular special district election is identical to the date set for a municipal or another special district election in any municipality or other special district having boundaries coterminous with the special district, the election may be held jointly with the municipal or other special district election. An election held jointly pursuant to this subsection (4) is not a coordinated election.

(5) Any election for the organization of a new health assurance or health service district must be held on the date of the general election or on the first Tuesday in November of an odd-

numbered year. Any election on the proposal of a health assurance or health service district must be conducted by the county clerk and recorder in which the proposed district will be located as part of a coordinated election in accordance with section 1-7-116.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 8, § 6, effective February 18. **L. 2018:** (1) amended, (HB 18-1039), ch. 29, p. 330, § 2, effective July 1, 2022.

1-13.5-112. Commencement of terms - nonpartisan officers.

(1) Unless otherwise provided by law, the regular term of office of a nonpartisan officer elected at a regular election commences the earlier of the following:

(a) No later than thirty days after the date that the election results are certified pursuant to section 1-13.5-1305 and upon the signing of an oath and posting of a bond, where required; or

(b) At the next meeting of the governing body of the local government following the date of the election.

(2) Unless otherwise provided by law, if the election is canceled in whole or in part pursuant to section 1-13.5-513, the regular term of office of a nonpartisan officer commences at:

(a) The next meeting of the governing body following the date of the regular election, but no later than thirty days following the date of the regular election and upon the signing of an oath and posting of a bond, where required; or

(b) If the nonpartisan officer was elected at an election other than a regular election, the next meeting of the governing body of the local government following the date of the election.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 9, § 6, effective February 18. **L. 2016:** (1)(a) amended, (HB 16-1442), ch. 313, p. 1266, § 2, effective August 10.

PART 2

QUALIFICATIONS AND REGISTRATION OF ELECTORS

1-13.5-201. Registration required.

Except where a statute specifically provides otherwise, no person is permitted to vote at any local government election without first having registered to vote in Colorado in accordance with the "Uniform Election Code of 1992", articles 1 to 13 of this title.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 9, § 6, effective February 18.

1-13.5-202. Persons entitled to vote at special district elections.

No person is permitted to vote in any special district election unless that person is an eligible elector as defined in section 32-1-103 (5), C.R.S.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 9, § 6, effective February 18.

1-13.5-203. Registration records for local government elections - costs.

(1) No later than the fortieth day preceding the date of a scheduled local government election, the designated election official shall order the registration records from the county clerk and recorder. The designated election official shall order either:

(a) An initial list of the registered electors as of the thirtieth day prior to the election, with a supplemental list to be provided on the twentieth day; or

(b) A complete list of registered electors as of the sixth day prior to the election.

(2) The county clerk and recorder shall certify and make available to the designated election official a complete copy of the list of the registered electors of the local government that has territorial boundaries located within the county and is involved in the election. If a supplemental list is provided pursuant to paragraph (a) of subsection (1) of this section, the county clerk and recorder shall certify and make available to the designated election official the supplemental list of eligible electors who became eligible since the earlier list was certified. These lists substitute for the original registration record.

(3) The registration list that is certified thirty days before the election pursuant to paragraph (a) of subsection (1) of this section must contain the names and addresses of all registered electors residing within the local government at the close of business on the fortieth day preceding the election. The supplemental registration list for each local government that is certified no later than twenty days before the election must contain the names and addresses of all eligible electors residing within the local government at the close of business on the twenty-second day prior to the election. If a supplemental list is provided, it must contain the names and addresses of all eligible electors who became eligible during the period since the initial registration list was certified through the close of business on the twenty-second day preceding the election.

(4) Costs for the lists required to be obtained under this section must be assessed by the county clerk and recorder and paid by the local government holding the election. The fee for furnishing the lists shall be no less than twenty-five dollars for the entire list or no more than one cent for each name contained on the registration list, whichever is greater.

(5) The designated election official may cancel an order for the list if the election is canceled pursuant to section 1-13.5-513 and the county clerk and recorder has not already prepared the list.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 9, § 6, effective February 18.

1-13.5-204. Lists of property owners - costs.

(1) For elections where owning property in the local government is a requirement for voting in the election, no later than the fortieth day preceding the date of the election, the designated election official shall order the list of property owners from the county assessor. Except as otherwise required under subsection (2) of this section, the county assessor shall certify and deliver an initial list of all recorded owners of taxable real and personal property within the local government no later than thirty days before the election. The supplemental list for the local government shall be provided no later than twenty days before the election and shall contain the names and addresses of all recorded owners who became owners no later than twenty-two days prior to the election and after the initial list of property owners was provided. The county assessors shall assess the cost for the lists, which must be paid by the local government holding the election. The fee for furnishing the lists is no less than twenty-five dollars for both lists or no more than one cent for each name contained on the lists, whichever is greater.

(2) The designated election official of a local government may order the list described in subsection (1) of this section of all recorded owners of taxable real and personal property within the local government as of the thirtieth day before the election, with a supplemental list to be provided on the twentieth day before the election, or the designated election official may order a complete list as of the sixth day before the election.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 10, § 6, effective February 18.

1-13.5-205. Delivery and custody of registration list and property owner list.

At such time as may be set by the designated election official, but at least one day prior to the election, one of the election judges from each precinct may appear in person at the office of the

designated election official for the purpose of receiving the registration list and, as applicable, property owners list, election supplies, or the designated election official may deliver the same to one of the judges. The judges shall have custody of the registration list and property owners list and shall give his or her receipt for the list. After the closing of the polls on the day of election, the election judge selected pursuant to section 1-13.5-410 to deliver the election papers and supplies shall deliver the registration list and property owners list to the office of the designated election official or to such other place as the designated election official may designate as the counting center.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 11, § 6, effective February 18.

PART 3

NOMINATIONS

1-13.5-301. Eligibility for office - prohibitions - exceptions - challenges.

(1) (a) No person except an eligible elector who is at least eighteen years of age, unless another age is required by law, is eligible to hold any office in this state. No person is eligible to be a candidate for office unless that person fully meets the qualifications of that office as stated in the constitution and statutes of this state on or before the date the person is nominated to the office. The designated election official shall not certify the name of any candidate who fails to swear or affirm under oath that he or she fully meets the qualifications as of the date of nomination or who is unable to provide proof that he or she meets any requirements of the office relating to registration, residence, or property ownership.

(b) The information found on the person's voter registration record is admissible as prima facie evidence of compliance with the registration and residence requirements of this section. The information found in the property owners list is admissible as prima facie evidence of compliance with property ownership requirements.

(2) Except as otherwise provided in this subsection (2), no person is eligible to be a candidate for more than one office in the same local government at one time. This subsection (2) does not:

(a) Apply to memberships on different special district or business improvement district boards; or

(b) Prohibit a candidate or elected official of any political subdivision from being a candidate or member of the board of directors of any special district, business improvement district, or districts in which he or she is an eligible elector, unless otherwise prohibited by law.

(3) The qualification of any candidate may be challenged by an eligible elector of the local government within five days after the date that the designated election official certifies the candidate to the ballot. The challenge shall be made by verified petition setting forth the facts alleged concerning the qualification of the candidate and shall be filed in the district court in the county in which the local government is located. The hearing on the qualification of the candidate must be held not less than five nor more than ten days after the date the designated election official's statement is issued that certifies the candidate to the ballot. The court shall hear the testimony and other evidence and, within forty-eight hours after the close of the hearing, determine whether the candidate meets the qualifications for the office for which the candidate has declared. Part 1 of article 17 of title 13, C.R.S., regarding frivolous, groundless, or vexatious actions, applies to this section.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 11, § 6, effective February 18.

1-13.5-302. Nomination of local government candidates.

(1) Except as provided in section 1-13.5-303 or other applicable law, candidates for office of nonpartisan local governments must be nominated, without regard to affiliation, by petition on forms supplied by the designated election official. A petition of nomination may consist of one or more sheets, but it must contain the name and address of only one candidate and indicate the office to which the candidate is seeking election. The candidate's name must be printed on each sheet of a petition of nomination.

(2) Nomination petitions for a candidate in a local government, other than a special district or business improvement district, may be circulated and signed, beginning on January 1 of the year in which election for that office is conducted and ending on the sixty-seventh day prior to the day of election, by at least two eligible electors residing within or eligible to vote in the local government.

(3) The circulator of each nomination petition shall make an affidavit that each signature thereon is the signature of the person whose name it purports to be and that each signer has stated to the circulator that the signer is an eligible elector of the local government for which the nomination is made.

(4) A petition is not valid if it does not contain the requisite number of signatures of eligible electors. The designated election official shall inspect timely filed petitions of nomination to ensure compliance with this section.

(5) Each nomination petition must be filed with the designated election official no later than the sixty-seventh day prior to the day of election. Every petition must have endorsed on it or appended to it the written affidavit of the candidate accepting the nomination and swearing that

the candidate satisfies the requirements set forth in law to be a candidate and hold office in the local government.

(6) The designated election official shall preserve all nomination petitions filed with him or her for a period of two years. All such petitions are open to public inspection under proper regulation by the designated election official with whom they are filed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 12, § 6, effective February 18.

1-13.5-303. Candidates for special district or business improvement district director - self-nomination and acceptance form.

(1) Except as otherwise provided in this section, no earlier than January 1 and no later than the normal close of business on the sixty-seventh day before the date of a regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by an eligible elector of the state as a witness to the signature of the candidate.

(2) On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector of the special district. If the district is divided into director districts established pursuant to section 32-1-301 (2)(f), C.R.S., the candidate shall be an eligible elector within the boundaries of the director district in which the candidate is running for office.

(3) The self-nomination and acceptance form or letter must contain the name of the special district in which the election will be held, the county or counties where the special district is located, the special district director office sought by the candidate, the term of office sought if more than one length of a director's term is to be voted upon at the election, the date of the election, the full name of the candidate as it is to appear on the ballot, and whether the candidate is a member of an executive board of a unit owners' association, as defined in section 38-33.3-103, located within the boundaries of the special district for which the candidate is running for office. The candidate and witness must provide their respective residence addresses, including the street number and name, city or town, and county, and telephone numbers, and the candidate must provide a current email address. Unless physically unable, all candidates and witnesses shall sign their own signature and shall print their names and include the date of signature on the self-nomination and acceptance form or letter.

(4) The self-nomination and acceptance form or letter must be filed with the designated election official or, if none has been designated, the presiding officer or the secretary of the board of directors of the special district in which the election will be held.

(5) (a) The self-nomination and acceptance form or letter must be verified and processed substantially as provided in this subsection (5)(a) and subsection (5)(b) of this section, a protest on such a form or letter must be determined substantially as provided in sections 1-4-909 and 1-4-911, and an insufficient form or letter may be cured by submitting an amended self-nomination and acceptance form or letter to the designated election official before the normal close of business on the sixty-seventh day before an election.

(b) Upon filing, the designated election official shall review the information in the self-nomination and acceptance form or letter and verify the information against the registration records, and, where applicable, the county assessor's records.

(c) If, while verifying a signer's information against the registration records in accordance with subsections (5)(a) and (5)(b) of this section, the designated election official finds that the signer provided his or her mailing address rather than his or her residence address as required under subsection (3) of this section, the designated election official may accept the self-nomination form if the designated election official is able to locate the signer's record in the statewide voter registration database and determine that the self-nomination form is otherwise sufficient.

(d) After review, the designated election official shall provide notification of the sufficiency or insufficiency of the candidate.

(6) In a business improvement district with an elected board of directors, nominations for business improvement district directors must be handled substantially as provided in subsections (1) to (5) of this section.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 13, § 6, effective February 18. **L. 2016:** (5) amended, (HB 16-1442), ch. 313, p. 1266, § 3, effective August 10. **L. 2021:** (3) and (5) amended, (SB 21-160), ch. 133, p. 536, § 3, effective September 7.

1-13.5-304. Withdrawal from nomination.

Any person who has been nominated and who has accepted a nomination, or filed a self-nomination form or letter, may cause his or her name to be withdrawn from such nomination at any time before the election by executing a written affidavit withdrawing from the nomination. The withdrawing candidate shall sign the affidavit and file it with the designated election official.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 14, § 6, effective February 18.

1-13.5-305. Write-in candidate affidavit.

A write-in vote for any local government office is counted only if an affidavit of intent to be a write-in candidate is filed with the designated election official by the person whose name is written in not later than sixty-four days before the day of the election. The affidavit of intent must indicate that the signer desires the office and is qualified to assume the duties of that office if elected.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 14, § 6, effective February 18.

1-13.5-306. Objections to nominations.

All self-nomination and acceptance forms or letters, petitions of nomination, and affidavits of intent to be a write-in candidate that are in apparent conformity, as determined by the designated election official, with section 1-13.5-302, 1-13.5-303, or 1-13.5-305, are valid unless objection thereto is duly made in writing within three days after the filing of the same. In case an objection is made, the designated election official shall mail forthwith notice of the objection to any candidate for the same office. The designated election official shall decide objections within forty-eight hours after the same are filed, and any objections upheld may be remedied or defect cured upon the original petition, by an amendment thereto, or by filing a new self-nomination and acceptance form or letter, petition of nomination, or affidavit of intent, as applicable, within three days after the objection is upheld, but in no event later than the fifty-eighth day before the day of election. The designated election official shall pass upon the validity of all objections, whether of form or substance, and the designated election official's decisions upon matters of form are final. The designated election official's decisions upon matters of substance are open to review if prompt application is made, as provided in section 1-13.5-1501, but the remedy in all cases shall be summary, and the decision of the district court is final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any proceeding in a summary way.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 14, § 6, effective February 18.

PART 4

ELECTION JUDGES

1-13.5-401. Appointment of election judges.

(1) (a) Except as provided in subsection (2) of this section, at least fifteen days before each local government election, the governing body shall appoint the election judges.

(b) Each election judge must be registered to vote in Colorado and at least eighteen years of age. Election judges must be appointed pursuant to this article without regard to party affiliation. Neither a current candidate for director nor any immediate family member, to the second degree, of such candidate is eligible to serve as an election judge.

(c) The designated election official shall make and file in his or her office a list of all individuals so appointed, giving their names and addresses. The list is a public record and is subject to inspection and examination during office hours by any elector of the local government with the right to make copies thereof.

(2) The governing body may delegate to the designated election official the authority and responsibility to appoint election judges in the manner provided in this section.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 14, § 6, effective February 18. **L. 2016:** (1) amended, (HB 16-1442), ch. 313, p. 1267, § 4, effective August 10.

1-13.5-402. Number of judges - appointment.

The governing body, or the designated election official if authorized pursuant to section 1-13.5-401 (2), shall appoint at least two election judges for each local government election. The appointing authority may also appoint any additional judges as deemed necessary, and may appoint counting judges.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 15, § 6, effective February 18.

1-13.5-403. Certificates of appointment.

Promptly after the appointment of the election judges, the designated election official shall issue certificates certifying the appointments. The designated election official shall mail one certificate to each person appointed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 15, § 6, effective February 18.

1-13.5-404. Acceptance form - time to file.

With each certificate of appointment transmitted to the election judges, the designated election official shall enclose a form for acceptance of the appointment. Each individual appointed as an election judge may file his or her acceptance form in the office of the designated election official within seven days after the date that the designated election official mailed the certificate of appointment and the acceptance form. Unless otherwise determined by the designated election official, failure of any person appointed as an election judge to file an acceptance within those seven days results in a vacancy, which shall be filled in the same way the original appointment was made.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 15, § 6, effective February 18.

1-13.5-405. Vacancies - emergency appointments.

Except when section 1-13.5-404 applies, if an individual appointed as an election judge refuses or fails to accept the appointment or is unable to serve, the individual or any other election judge must immediately notify the designated election official. The designated election official shall forthwith appoint another qualified individual to serve as election judge in the place of the individual. In the event of an emergency, including inability to notify the designated election official, the remaining election judges at the location where the individual was to serve may appoint a replacement election judge.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 15, § 6, effective February 18.

1-13.5-406. Removal of judges.

The designated election official may summarily remove any election judge who neglects his or her duty, or commits, encourages, or connives at any fraud in connection therewith, or violates any election laws, or knowingly permits others to do so, or has been convicted of any felony, or violates his or her oath, or commits any act that interferes or tends to interfere with a fair and honest election. An election judge has no cause of action against a local government or designated election official arising from removal from office pursuant to this section.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 15, § 6, effective February 18.

1-13.5-407. Oath of judges.

Before any votes are taken at any local government election, the election judges shall make a self-affirmation substantially in the following form:

> I, ..., do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am a registered elector in Colorado; that I will perform the duties of election judge according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same; that I will not try to ascertain how any elector voted, nor will I disclose how any elector voted if, in the discharge of my duties as judge, such knowledge shall come to me, unless called upon to disclose the same before some court; and that I will not disclose the result of the votes until the polls have closed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 16, § 6, effective February 18.

1-13.5-408. Training of judges.

The designated election official shall make available an instruction class concerning the tasks of an election judge not more than forty-five days prior to each election. A designated election official shall remove an election judge who fails or refuses to attend the instruction class.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 16, § 6, effective February 18.

1-13.5-409. Compensation of judges.

The election judges at any local government election shall receive reasonable compensation for their services as election judges on election day and additional reasonable compensation for attending an instruction class required in section 1-13.5-408, as determined by the governing body of the local government or designated election official if authorized by the governing body to make a reasonable determination.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 16, § 6, effective February 18.

1-13.5-410. Compensation for delivery of election returns and other election papers.

The election judges in each polling place shall select one of their number to deliver the election returns, registration list, property owners list, ballot boxes, if any, and other election papers and supplies to the office of the designated election official or to such other place as the designated election official may designate as the counting center. The judge so selected shall be paid a reasonable amount of compensation for the performance of such service.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 16, § 6, effective February 18.

PART 5

NOTICE AND PREPARATION FOR ELECTIONS

1-13.5-501. Call for nominations - definitions.

(1) Between seventy-five and one hundred days before a regular local government election, the designated election official shall provide public notice of a call for nominations for the election. The call must state the director offices to be voted upon at the election, where a self-nomination and acceptance form or letter may be obtained, the deadline for submitting the self-nomination and acceptance form or letter to the designated election official, and information on obtaining an absentee ballot.

(1.5) Except as otherwise required by subsection (1.7) of this section, the public notice required by subsection (1) of this section must be made by publication as defined by subsection (2) of this section and by any one of the following means:

(a) Mailing the notice, at the lowest cost option, to each address at which one or more active registered electors of the local government resides as specified in the registration list provided by the county clerk and recorder as of the date that is one hundred fifty days prior to the date of the regular local government election;

(b) Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election, or other informational mailing sent by the local government to the eligible electors of the local government;

(c) Posting the information on the official website of the local government; or

(d) For a local government with fewer than one thousand eligible electors that is wholly located within a county the population of which is less than thirty thousand people, posting the notice in at least three public places within the territorial boundaries of the local government and, in addition, posting a notice in the office of the clerk and recorder of the county in which the local government is located. Any such notices must remain posted until the day after the call for nominations closes.

(1.7) (a) In the case of any metropolitan district that was organized after January 1, 2000, in accordance with title 32, the notice required by subsection (1) of this section must be made by emailing the notice to each active registered elector of the metropolitan district as specified in the registration list provided by the county clerk and recorder as of the date that is one hundred fifty days prior to the date of the regular local government election. Where the active registered elector does not have an email address on file for such purpose with the county clerk and recorder as of the date that is not later than one hundred fifty days prior to the date of the regular local government election, the public notice required by subsection (1) of this section must be made by mailing the notice, at the lowest cost option, to each address at which one or more active registered electors of the metropolitan district resides as specified in the registration list provided by the county clerk and recorder as of the date that is one hundred fifty days prior to the date of the regular local government election.

(b) In addition to the public notice required by subsection (1.7)(a) of this section, the designated election official shall also provide public notice by any one of the following means:

(I) Publication as defined in subsection (2) of this section;

(II) Including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election, or other informational mailing sent by the metropolitan district to the eligible electors of the metropolitan district;

(III) Posting the information on the official website of the metropolitan district; or

(IV) For a metropolitan district with fewer than one thousand eligible electors that is wholly located within a county, the population of which is less than thirty thousand people, posting the notice in at least three public places within the territorial boundaries of the metropolitan district and, in addition, posting a notice in the office of the clerk and recorder of the county in which the special district is located. Any such notices must remain posted until the day after the call for nominations closes.

(2) As used in this section, "publication" means printing one time, in one newspaper of general circulation in the special district or proposed special district if there is such a newspaper, and, if not, then in a newspaper in the county in which the special district or proposed special district is located. For a special district with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the special district, then one

publication is required in a newspaper in each county in which the special district is located and in which the special district also has fifty or more eligible electors.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 16, § 6, effective February 18. **L. 2021:** (1) amended and (1.5) and (1.7) added, (SB 21-262), ch. 368, p. 2425, § 1, effective September 7.

1-13.5-502. Notice of election.

(1) The designated election official, at least twenty days before each local government election, shall give written notice of the election stating the date of the election and the location and hours during which the polls will be open; the date ballots have or may be mailed if the election is conducted by mail ballot; mail ballot drop-off locations; names of the officers to be elected and any ballot issues and ballot questions to be voted upon; and the names of those candidates whose nominations have been certified to the designated election official, which listing must be as nearly as possible in the form in which such nominations will appear upon the official ballot. For an independent mail ballot election, the notice does not need to include the text of the ballot issues or ballot questions. A copy of the notice must be posted until after the election in a conspicuous place in the office of the designated election official. A copy of the notice must be mailed or sent via electronic mail to the county clerk and recorder.

(2) (a) In addition, the notice required by this section must be published in at least one newspaper having general circulation in the local government on or before the twentieth day before election day.

(b) On or before the twentieth day before the election, a special district must effect publication of the notice as provided in section 1-13.5-1102.

(3) All polling places must be designated by a sign conspicuously posted at least twenty days before each local government election. The sign must be substantially in the following form: "Polling Place for (name of local government)". In addition, the sign must state the date of the next election and the hours the polling place will be open.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 17, § 6, effective February 18.

1-13.5-503. Ballot issue notice.

(1) Any ballot issue notice relating to a local government ballot issue must be prepared and distributed in a manner consistent with part 9 of article 7 of this title.

(2) In addition to the requirements set forth in subsection (1) of this section, a local government submitting a ballot issue concerning the creation of any debt or other financial obligation at an election in the local government must post notice in accordance with the requirements of section 1-7-908.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 17, § 6, effective February 18.

1-13.5-504. Establishing precincts and polling places - applicability.

(1) This section applies to local government elections that are conducted by polling place.

(2) The governing body of each local government, or designated election official if authorized by the governing body, shall divide the local government into as many election precincts for local government elections as it deems expedient for the convenience of the electors of the local government and shall designate the location and address for each polling place at which elections are to be held.

(3) The designated election officials of local governments with overlapping boundaries that hold elections the same day by polling place must meet, confer, and thereafter, if practical, hold such elections in a manner that permits an elector in the overlapping area to vote in all of such elections at one polling place.

(4) Notwithstanding subsection (3) of this section, the governing body or designated election official shall change any polling place upon petition of a majority of the registered electors residing within the local government.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 18, § 6, effective February 18.

1-13.5-504.5. Accessibility of polling places to persons with disabilities.

(1) Each polling place shall comply fully with the current "ADA standards for accessible design" set forth in 28 CFR 36 and promulgated in accordance with the federal "Americans with Disabilities Act of 1990", as amended, 42 U.S.C. sec. 12101 et seq., and no barrier shall impede the path of electors with disabilities to the voting booth.

(2) Emergency polling places are exempt from compliance with this section.

(3) Except as otherwise provided in subsection (2) of this section, a designated election official shall only select as polling places such sites that meet the standards of accessibility set forth in subsection (1) of this section.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 18, § 6, effective February 18.

1-13.5-505. Judges may change polling places.

(1) When it becomes impossible or inconvenient to hold an election at the place designated, the election judges, after notifying the designated election official and after having assembled at or as near as practicable to such place and before receiving any vote, may move to the nearest convenient place for holding the election and at such newly designated place proceed with the election.

(2) Upon moving to a new polling place, the judges shall prominently display a proclamation of the change and may station a proper person at the original polling place to notify all persons appearing at the original polling place of the new location for holding the election.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 18, § 6, effective February 18.

1-13.5-506. Number of voting booths, voting machines, or voting systems.

(1) In local governments that use paper ballots, the governing body shall provide in each polling place a sufficient number of voting booths. Each voting booth shall be situated so as to permit an eligible elector to prepare his or her ballot screened from observation and shall be furnished with such supplies and conveniences as will enable the eligible elector to prepare his or her ballot for voting.

(2) In local governments that use voting machines, the governing body shall supply each polling place with a sufficient number of voting machines.

(3) In local governments that use an electronic voting system, the governing body shall provide adequate materials and equipment for the orderly conduct of voting.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 19, § 6, effective February 18.

1-13.5-507. Arrangement of voting machines or voting booths and ballot boxes.

The voting machines or the voting booths and ballot box must be situated in the polling place in plain view of the election officials and watchers. No person other than the election officials and those admitted for the purpose of voting are permitted within the immediate voting area,

which is the area within six feet of the voting machines or the voting booths and ballot box, except by authority of the election judges, and then only when necessary to keep order and enforce the law.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 19, § 6, effective February 18.

1-13.5-508. Election expenses to be paid by local government.

The cost of conducting a local government election, including the cost of printing and supplies, is to be paid by the local government for which the election is being held.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 19, § 6, effective February 18.

1-13.5-509. Failure to receive mailed notice.

Any election for which a notice was mailed shall not be invalidated on the grounds that an eligible elector did not receive the ballot issue notice, mailed information, or mailed notification of the election required by law or the state constitution if the designated election official acted in good faith in making the mailing. Good faith is presumed if the designated election official or coordinated election official mailed the ballot issue notice, information, or notification to the addresses appearing on a registration list for the local government as provided by the county clerk and recorder, and, where applicable, the property owners list for the local government provided by the county assessor.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 19, § 6, effective February 18.

1-13.5-510. Court-ordered elections.

(1) When an election is ordered by the court for a special district, the court shall authorize the designated election official to give notice, and take such other actions, as provided in the order.

(2) For an organizational election, the notice by publication must include the purposes of the election, the estimated operating and debt service mill levies and fiscal year spending for the first year following organization, and the boundaries of the special district. The notice by publication

must recite the election date, which shall be not less than twenty days after publication of the election notice.

(3) For a dissolution election, the notice by publication must include the plan for dissolution or a summary of the plan and the place where a member of the public may inspect or obtain a copy of the complete plan. The notice by publication must recite the election date, which must be not less than twenty days after publication of the election notice.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 19, § 6, effective February 18. **L. 2016:** (1) amended, (HB 16-1442), ch. 313, p. 1267, § 5, effective August 10.

1-13.5-511. Certification of ballot.

(1) No later than sixty days before any election, the designated election official of each local government that intends to conduct an election shall certify the order of the ballot and ballot content. The order of the ballot and ballot content must include the name and office of each candidate for whom a petition or self-nomination form or letter has been filed with the designated election official and any ballot issues or ballot questions to be submitted to the eligible electors.

(2) After a designated election official has certified the order of the ballot and ballot content in accordance with subsection (1) of this section, the designated election official may recertify the ballot if:

(a) A candidate withdraws from a race, and the withdrawal would not change the order that the candidate names appear on the ballot as previously determined by the lot drawing; or

(b) There are technical revisions to a ballot issue or ballot question prior to the ballots being printed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 20, § 6, effective February 18. **L. 2016:** Entire section amended, (HB 16-1442), ch. 313, p. 1267, § 6, effective August 10.

1-13.5-512. Correction of errors.

The designated election official shall, on his or her own motion, correct without delay any error in publication of sample or official ballots that he or she discovers or that is brought to his or her attention and that can be corrected without interfering with the timely distribution of the ballots.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 20, § 6, effective February 18.

1-13.5-513. Election may be canceled - when - definition.

(1) If the only matter before the electors in a nonpartisan election is the election of persons to office and if, at the close of business on the sixty-third day before the election or at any time thereafter, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent to be a write-in candidate, the designated election official, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.

(2) No later than twenty-five days before an election conducted as a coordinated election in November, and at any time prior to any other elections, a governing body may by resolution withdraw one or more ballot issues or ballot questions from the ballot. In such case, the ballot issues and ballot questions are deemed to have not been submitted and votes cast on the ballot issues and ballot questions will either not be counted or be deemed invalid by action of the governing body.

(3) If the electors are to consider the election of persons to office and ballot issues or ballot questions, the election may be canceled by the governing body only in the event that all of the conditions of subsection (1) of this section exist and that all ballot issues or ballot questions have been withdrawn from the ballot pursuant to subsection (2) of this section.

(3.5) (a) If, pursuant to section 32-1-902.7, the board of directors of a special district has adopted a resolution to divide the special district into director districts and has designated that the directors representing the director districts must be elected by the eligible electors within each director district, then the governing body may cancel the election for one or more director districts if, with respect to each such director district, all the conditions of subsection (1) of this section exist and all ballot issues or ballot questions, if any, have been withdrawn from the ballot pursuant to subsection (2) of this section.

(b) As used in this subsection (3.5), "director district" means the area represented by one director within a special district in which the board has adopted a resolution to divide the special district into director districts pursuant to section 32-1-902.7.

(4) Except as provided in subsections (2) and (3.5) of this section, no election may be canceled in part.

(5) Unless otherwise provided by an intergovernmental agreement pursuant to section 1-7-116, upon receipt of an invoice, the governing body shall within thirty days promptly pay all

costs accrued by the county clerk and recorder and any applicable political subdivision attributable to the canceled election or withdrawn ballot issues or ballot questions.

(6) The governing body or designated election official shall provide notice by publication, as that term is defined in section 1-13.5-501, of the cancellation of the election. A copy of the notice must be posted at each polling location of the local government, in the office of the designated election official, and in the office of the clerk and recorder for each county with territorial boundaries that overlap in whole or in part with those of the local government and, for special districts, a copy of the notice must be filed in the office of the division of local government. The governing body shall also notify the candidates that the election was canceled and that they were elected by acclamation.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 20, § 6, effective February 18. **L. 2025:** (3.5) added and (4) amended, (SB 25-172), ch. 87, p. 364, § 1, effective August 6.

PART 6

CONDUCT OF ELECTIONS

1-13.5-601. Hours of voting.

At all elections held under this article, the polls shall be opened at 7 a.m. and remain open until 7 p.m. of the same day. If a full set of election judges is not present at the hour of 7 a.m., an alternate election judge shall be appointed by the designated election official or judge in attendance at the polling place. The polls shall be opened if at least two election judges are present, even if the alternate judge has not arrived. Every person otherwise qualified to vote who is standing in line waiting to vote at 7 p.m. may vote.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 21, § 6, effective February 18.

1-13.5-602. Watchers - definition.

(1) (a) (I) Each candidate for office, or interested party in case of a ballot issue or ballot question, at a local government election is entitled to appoint an eligible elector to act on his or her behalf in every polling place in which he or she is a candidate or in which the issue or question is on the ballot; except that neither a current candidate for director nor any immediate family member, to the second degree, of such candidate is eligible to serve as a watcher for that candidate.

(II) As used in this section, "interested party" means an issue committee whose issue is on the ballot.

(b) The candidates or interested parties shall certify the name of the persons so appointed to the designated election official on forms provided by the designated election official. If multiple names are certified to the designated election official for or against any ballot issue or ballot question, and the designated election official reasonably determines that multiple watchers will impede the conduct of the election, the designated election official may, by lot, reduce the number of watchers to one for and one against the ballot issue or ballot question for each location to be watched.

(c) In case a watcher must leave the polling place, the watcher may designate an alternate to act on his or her behalf while he or she is absent if the alternate is made known to the election judges by an affidavit of the person first named as a watcher. A watcher serving at the polling place has the right to remain inside the polling place from at least fifteen minutes prior to the opening of the polls until after the completion of the count of votes cast at the election and the certification of the count by the election judges. Each watcher may maintain a list of eligible electors as the names are announced by the election judges and witness each step in the conduct of the election.

(2) Watchers shall take an oath administered by one of the election judges that they are eligible electors, that their name has been submitted to the designated election official as a watcher for this election, and that they will not in any manner make known to anyone the result of counting votes until the polls have closed.

(3) Watchers shall not:

(a) Interrupt or disrupt the processing, verification, or counting of any ballots or any other stage of the election;

(b) Write down any ballot numbers or any other identifying information about the electors;

(c) Handle the pollbooks, affidavits and self-affirmations, ballots, mail ballot envelopes, absentee ballot envelopes, voting or counting machines, or machine components;

(d) Interfere with the orderly conduct of any election process, including issuance of ballots, receiving of ballots, and voting or counting of ballots;

(e) Interact with election officials or election judges except for the individual identified by the designated election official; or

(f) Have a cellular phone, camera, recording device, laptop or tablet, or other electronic data capture device in the polling place.

(4) A designated election official may remove a watcher upon finding that the watcher commits or encourages fraud in connection with his or her duties, violates any of the limitations

outlined in this article, violates his or her oath, or is abusive or threatening toward election officials or any other person.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 21, § 6, effective February 18. **L. 2016:** (1)(a)(I) amended, (HB 16-1442), ch. 313, p. 1268, § 7, effective August 10.

1-13.5-603. Judges open ballot box first.

In polling places that use an electronic voting system or paper ballots, the election judges, immediately before the opening of the polls, shall open the ballot box in the presence of the people assembled in the polling place, turn it upside down so as to empty it of all of its contents, and then lock it securely. The ballot box must not be reopened until the time for counting the ballots it contains.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 22, § 6, effective February 18.

1-13.5-604. Judge to keep pollbook.

An election judge shall keep a pollbook, which shall contain one column headed "names of voters" and one column headed "number on ballot". The name and number on the ballot of each eligible elector voting must be entered in regular succession under the headings in the pollbook.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 23, § 6, effective February 18.

1-13.5-605. Preparing to vote.

(1) Any eligible elector desiring to vote shall write his or her name and address on a form available at the polling place and shall give the form to one of the election judges, who shall thereupon announce the same clearly and audibly. If the elector is unable to write, he or she may request assistance from one of the election judges, and such judge shall sign the form and witness the elector's mark. The form made available must contain in substance the following:

> I state under penalty of perjury that I am an elector who is eligible to vote each of the ballots that I have cast in this election; that my signature and name are as shown on this

document; that I have not and will not cast more than one ballot for a matter to be decided in this election; and that my ballots are cast in accordance with applicable law.

Name: .....

Date: .....

Signature of elector: .....

If the person's name is found on the registration list or property owners list, as applicable, by the election judge having charge thereof, he or she shall repeat the name, and the elector shall be allowed to enter the immediate voting area.

(2) (a) Any person desiring to vote at any special district election as an eligible elector who does not appear on the registration list or property owners list for the district shall sign a self-affirmation that the person is an elector of the special district. The self-affirming oath or affirmation shall be on a form that contains in substance the following:

I, (printed name), who reside at (address), am an elector of this (name of special district) district and desire to vote at this election. I do solemnly swear (or affirm) that I am registered to vote in the state of Colorado and qualified to vote in this special district election as:

____ a resident of the district or area to be included in the district; or

____ the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district; or

____ a person who is obligated to pay taxes under a contract to purchase taxable property in the special district or the area to be included within the special district; or

____ the spouse or civil union partner of (name of spouse or civil union partner) who is the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district.

I have not voted previously at this election.

Date _____

Signature of elector _____.

(b) A person otherwise eligible to vote in a local government election that is not a special district election whose name has been omitted from the registration list or property owner's list shall be permitted to vote by:

(I) Taking substantially the following self-affirmation:

> I do solemnly swear or affirm that I am a citizen of the United States of the age of eighteen years or older; that I am a registered elector in this political subdivision; that I am eligible to vote at this election; and that I have not previously voted at this election; or

(II) Presenting to an election judge a certificate of registration issued on election day by the county clerk and recorder or a certificate of property ownership issued on election day by the county assessor as applicable; or

(III) An election judge verifying, on election day, the person's registration with the county clerk and recorder or through the statewide voter registration records maintained by the secretary of state, or, as applicable, obtaining verification of the person's property ownership from the county assessor.

(3) An election judge shall promptly contact the county clerk and recorder or the county assessor for verification required under paragraph (b) of subsection (2) of this section so that every eligible elector present at the polling place is allowed to vote. Notation of verification of registration or property ownership shall be made in the pollbook next to the eligible elector's name.

(4) The self-affirmation provided in subsection (2) of this section must be accepted in lieu of the verification of registration or property ownership unless the person's right to vote is successfully challenged.

(5) Besides the election officials, not more than four eligible electors in excess of the number of voting booths or voting machines are allowed within the immediate voting area at one time.

(6) The completed signature forms must be returned with other election materials to the designated election official. If no challenges are made, the forms may be destroyed after forty-five days following election day.

(7) In precincts using paper ballots, an election judge shall give the eligible elector one, and only one, ballot, which the election judge shall remove from the package of ballots by tearing or cutting the ballot along the perforated or dotted line. Before delivering the ballot to an elector, the election judge having charge of the ballots shall endorse his or her initials on the duplicate stub. An election judge shall enter the name of the elector and number of said ballot in the pollbook.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 23, § 6, effective February 18.

1-13.5-606. Manner of voting in precincts using paper ballots.

(1) In precincts that use paper ballots, upon receiving his or her ballot, an eligible elector shall immediately retire alone to one of the voting booths provided and shall prepare the ballot by marking or stamping in ink or indelible pencil, in the appropriate margin or place, a cross mark (x) opposite the name of the candidate of the elector's choice for each office to be filled; except that no cross mark (x) is required opposite the name of a write-in candidate. In case of a question submitted to a vote of the people, the elector shall mark or stamp, in the appropriate margin or place, a cross mark (x) opposite the answer that he or she desires to give. Before leaving the voting booth, the elector shall fold the ballot without displaying the marks thereon so that the contents of the ballot are concealed and the stub can be removed without exposing any of the contents of the ballot, and the elector must keep the ballot folded until the elector deposits the ballot in the ballot box.

(2) Each eligible elector who has prepared a ballot and is ready to cast his or her vote shall then leave the voting booth and approach the election judge in charge of the ballot box. The elector shall give his or her name to that judge, who shall announce the name of such elector and the number upon the duplicate stub of the ballot, which number must correspond with the stub number previously placed on the registration list or pollbook. If the stub number of the ballot corresponds and is identified by the initials of the election judge placed thereupon, the election judge shall then remove the duplicate stub from the ballot. The ballot must then be returned to the eligible elector, who shall, in full view of the election judges, cast his or her vote by depositing the ballot in the ballot box.

(3) Each eligible elector shall mark and deposit his or her ballot without undue delay and shall leave the immediate voting area as soon as the elector votes. No elector shall occupy a voting booth already occupied by another, nor remain within the immediate voting area for more than ten minutes, nor occupy a voting booth for more than five minutes if all such booths are in use and other electors are waiting to occupy the same. No eligible elector whose name has been entered on the pollbook is allowed to reenter the immediate voting area during the election except when accompanied by an election judge.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 25, § 6, effective February 18.

1-13.5-607. Eligible elector requiring assistance.

(1) Notwithstanding any provision of section 1-13.5-606 to the contrary, if, at any election, an eligible elector declares under oath to the election judges of the polling place that, by reason of visual impairment or other physical disability or inability to read or write, the elector is unable to prepare his or her ballot or operate the voting machine without assistance, the elector may, upon request, receive the assistance of any one of the election judges or, at the elector's option, any other person selected by the elector requiring assistance. No person, other than an election judge, is permitted to enter a voting booth as an assistant to more than one elector.

(2) A notation must be made in the pollbook opposite the name of each voter thus assisted indicating that the voter was assisted.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 25, § 6, effective February 18.

1-13.5-608. Spoiled ballots.

In polling places that use an electronic voting system or paper ballots, no person shall take or remove any ballot from the polling place before the close of the polls. If any elector spoils a ballot, he or she may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The spoiled ballots so returned shall be immediately canceled and shall be preserved and returned to the designated election official along with other election records and supplies.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 26, § 6, effective February 18.

1-13.5-609. Counting paper ballots.

(1) As soon as the polls at any election are finally closed, the election judges shall immediately open the ballot box and proceed to count the votes cast, and, before the election judges adjourn, the counting thereof shall continue until finished. The election judges shall first count the number of ballots in the box. If the ballots are found to exceed the number of names entered on the pollbook, the election judges shall then examine the official endorsements upon the ballots, and if, in the unanimous opinion of the judges, any of the ballots in excess of the

number on the pollbook do not bear the proper official endorsement, they shall be put into a separate pile, and a separate record and return of the votes in such ballots shall be made under the heading "excess ballots". When the ballots and the pollbook agree, the election judges shall proceed to count the votes. Each ballot shall be read and counted separately, and every name separately marked as voted for on such ballot where there is no conflict to obscure the intention of the voter, and shall be read and marked upon the tally sheets before proceeding to any other ballot. Each ballot, excepting excess ballots, shall be read and counted and placed upon the tally sheets in like manner.

(2) When all the votes have been read and counted, the ballots, together with one of the tally lists, shall be placed in a box or appropriate container, and the opening shall be carefully sealed, and each of the election judges shall place his or her initials on said seal. The sealed box shall be delivered to the designated election official pursuant to section 1-13.5-614.

(3) All persons, except election judges and watchers, are excluded from the place where the counting is being carried on until the count has been completed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 26, § 6, effective February 18.

1-13.5-610. Counting by counting judges.

(1) In precincts with counting judges, the receiving judges as directed by the designated election official shall deliver to the counting judges the ballot box containing cast ballots and the receiving judges shall then use another ballot box furnished for voting. The receiving judges shall open, empty, and lock the alternate ballot box in the manner prescribed in section 1-13.5-603.

(2) When the counting judges have counted the votes in a ballot box, they shall return the empty ballot box to the receiving judges and exchange it for the box containing ballots cast since taking possession of the first ballot box. The judges shall continue to exchange ballot boxes in the same manner until the polls are closed and shall continue counting until all ballots have been counted.

(3) When an exchange of ballot boxes is made as described in subsection (2) of this section, the receiving judges shall sign and furnish to the counting judges a statement showing the number of ballots that are to be found in each ballot box as indicated by the pollbooks. The counting judges shall then count ballots in the manner prescribed in section 1-13.5-609.

(4) The designated election official may provide a separate room or building for the counting judges.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 26, § 6, effective February 18.

1-13.5-611. Tally sheets.

As the election judges open and read the ballots, the votes that each candidate and any ballot issue or ballot question received must be carefully marked down, upon tally sheets prepared by the designated election official for that purpose, by any appropriate election official.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 27, § 6, effective February 18.

1-13.5-612. Defective ballots.

(1) If an elector votes for more names than there are persons to be elected to an office, or, if it is impossible to determine the choice of an elector for an office to be filled, the elector's ballot will not be counted for that office. A defective or an incomplete cross marked on any ballot in a proper place must be counted if there is no other mark or cross on such ballot indicating an intention to vote for some person other than those indicated by the first mentioned defective cross or mark. No ballot without the official endorsement, except as provided in section 1-13.5-704, may be deposited in the ballot box, and only ballots provided in accordance with this article shall be counted. If the election judges discover in the counting of votes that the name of any candidate voted for is misspelled or the initial letters of a candidate's given name are transposed or omitted in part or altogether on the ballot, the vote for the candidate must be counted if the intention of the elector to vote for the candidate is apparent.

(2) Ballots not counted must be marked "defective" on the back thereof and shall be preserved for such time as is provided in section 1-13.5-616 for ballots and destroyed as therein directed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 27, § 6, effective February 18.

1-13.5-613. Judges' certificate - statement on ballots.

(1) As soon as all the votes have been read and counted, the election judges shall make a certificate stating:

(a) The name of each candidate, designating the office for which each candidate received votes;

(b) The number of votes each candidate received, which number must be expressed in words, at full length, and in numerical figures; and

(c) The ballot issue or ballot question, if any, voted upon and the number of votes counted for and against the ballot issue or ballot question.

(2) (a) In addition, the election judges shall make a statement in writing showing the number of ballots voted, containing a separate statement that identifies and specifies each of the following:

(I) The number of ballots delivered to electors;

(II) The number of ballots not delivered to electors;

(III) The number of unofficial and substitute ballots voted;

(IV) The number of spoiled ballots; and

(V) The number of ballots returned.

(b) All unused ballots, spoiled ballots, and stubs of ballots voted must be returned with the statement described in paragraph (a) of this subsection (2).

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 27, § 6, effective February 18.

1-13.5-614. Delivery of election returns, ballot boxes, and other election papers.

When all the votes have been read and counted, an election judge shall deliver to the designated election official the certificate and statement required by section 1-13.5-613, the ballot boxes and all keys or seals thereto, and the registration and property owners lists, pollbooks, tally sheets, spoiled ballots, unused ballots, ballot stubs, oaths, affidavits, and other election papers and supplies. The delivery must be made at once and with all convenient speed, and informality in delivery does not invalidate the vote of any polling place when delivery has been made prior to the completion of the official abstract of the votes by the canvassers pursuant to section 1-13.5-1305. The designated election official shall provide a receipt for all papers so delivered.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 28, § 6, effective February 18.

1-13.5-615. Abstract of votes - judges to post returns.

(1) (a) In addition to all certificates otherwise required to be made of the count of votes cast at any election, the election judges are required to make an abstract of the count of votes containing the names of the offices, the names of the candidates, any ballot issues or ballot questions voted upon, and the number of votes counted for and against each candidate or ballot measure.

(b) Suitable blanks for the required abstract shall be prepared, printed, and furnished to all election judges at the same time and in the same manner as other election supplies are furnished.

(2) Immediately upon completion of the count, the abstract required under subsection (1) of this section must be posted in a conspicuous place that can be seen from the outside of the polling place. The abstract may be removed at any time forty-eight hours after the polls close.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 28, § 6, effective February 18.

1-13.5-616. Preservation of ballots and election records.

(1) The ballots, when not required to be taken from the sealed box for the purpose of election contests, shall remain in the sealed box in the custody of the designated election official until twenty-five months after the date the polls closed for the election at which the ballots were cast or until the time has expired for which the ballots would be needed in any contest proceedings, at which time the sealed box must be opened by the designated election official and the ballots destroyed by fire, shredding, burial, or by any other method approved by the governing body.

(2) The designated election official shall preserve all other official election records and forms for at least six months following the date the polls closed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 29, § 6, effective February 18.

1-13.5-617. Ranked voting methods.

(1) Notwithstanding any provision of this article to the contrary, a local government may use a ranked voting method to conduct a regular election to elect the members of the governing body of the local government in accordance with section 1-7-1003, and the rules adopted by the secretary of state pursuant to section 1-7-1004.

(2) A local government conducting an election using a ranked voting method may adapt the requirements of this article, including requirements concerning the form of the ballot, the method

of marking the ballot, the procedure for counting ballots, and the form of the election judges' certificate, as necessary for compatibility with the ranked voting method.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 29, § 6, effective February 18.

1-13.5-618. Covered voters to receive mail ballots.

Notwithstanding any provision of this article 13.5 to the contrary, the designated election official of a local government shall mail a ballot to every eligible elector of the local government who is a covered voter, as that term is defined in section 1-8.3-102, for any election conducted under this article 13.5.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 29, § 6, effective February 18. **L. 2021:** Entire section amended, (SB 21-160), ch. 133, p. 537, § 4, effective September 7.

PART 7

VOTING MACHINES

1-13.5-701. Use of voting machines.

Voting machines may be used in any local government election if the governing body, by resolution, authorizes their use.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 29, § 6, effective February 18.

1-13.5-702. Judges to inspect machines - when.

The election judges of each polling place at which voting machines are used shall meet at the polling place at least forty-five minutes before the time set for the opening of the polls at each election. Before the polls open for an election, each judge shall carefully examine each machine used in the polling place and see that no vote has been cast and that every counter, except the protective counter, registers zero.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 29, § 6, effective February 18.

1-13.5-703. Sample ballots, ballot labels, and instruction cards.

(1) Sample ballots must be produced for display at polling places in which voting machines are used and are subject to public inspection. The sample ballots must be arranged in the form of a diagram showing the front of the voting machine as it will appear after the official ballot labels are arranged on the voting machine for voting. The designated election official shall provide sample ballots for each polling place. The sample ballots must be delivered to the election judges and posted in the polling place for display on election day.

(2) The designated election official or his or her designee shall also prepare and place on each voting machine to be used in the polling place a set of official ballot labels arranged in the manner prescribed for the official election ballot to be used on voting machines. The designated election official shall deliver the required number of voting machines, equipped with the official ballot, to each polling place no later than the day prior to the day of election.

(3) Instruction cards to guide eligible electors in casting their ballots on voting machines must be supplied by the designated election official as provided in section 1-13.5-906.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 30, § 6, effective February 18.

1-13.5-704. Instructions to vote.

In case an eligible elector, after entering the voting machine or voting booth, asks for further instructions concerning the manner of voting, an election judge shall give such instruction to him or her; except that no judge or other election officer or person assisting such elector shall enter the voting machine or voting booth, except as provided in section 1-13.5-607, or in any manner request, suggest, or seek to persuade or induce any such elector to vote for any particular candidate, or for or against any particular ballot issue or ballot question. After receiving instruction, the eligible elector shall vote as in the case of an unassisted voter.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 30, § 6, effective February 18.

1-13.5-705. Length of time to vote.

No eligible elector shall remain within the voting machine booth longer than three minutes. If an eligible elector refuses to leave after a lapse of three minutes, the elector shall be removed by

the election judges, but the judges, in their discretion, may permit an elector to remain longer than three minutes.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 30, § 6, effective February 18.

1-13.5-706. Judge to watch voting machines.

The election judges shall designate at least one judge to be stationed beside the entrance to the voting machine or voting booth during the entire period of the election to see that it is properly closed after an elector has entered to vote. At such intervals as the judge deems proper or necessary, the judge shall examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer, and to repair any injury.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 30, § 6, effective February 18.

1-13.5-707. Designated election official to supply seals for voting machines.

The designated election official shall supply each polling place with a seal for each voting machine for the purpose of sealing each machine after the polls are closed and an envelope for the return of the keys and seals to the machine, as applicable, with the election returns.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 31, § 6, effective February 18.

1-13.5-708. Close of polls and count of votes.

As soon as the polls are closed, the election judges shall immediately lock and seal each voting machine to prevent further voting. Immediately after each machine is locked and sealed, the election judges shall open the counting compartments and count the votes. After the total votes for each candidate and each ballot issue or ballot question, as applicable, have been ascertained, the election judges shall make a certificate of votes cast, in numerical figures only, and return the same to the designated election official as provided in section 1-13.5-613.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 31, § 6, effective February 18.

1-13.5-709. Election laws apply - separate absentee ballots permitted.

Nothing in this part 7 prohibits the use and acceptance of separate paper ballots by absentee voters.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 31, § 6, effective February 18.

PART 8

ELECTRONIC VOTING SYSTEMS

1-13.5-801. Use of electronic voting system.

An electronic voting system may be used in any local government election if the governing body authorizes its use.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 31, § 6, effective February 18.

1-13.5-802. Sample ballots.

Sample ballots shall be printed and in the form of the official ballot but on paper of a different color from the official ballot. The designated election official shall provide that sample ballots for each polling place are delivered to the election judges and posted in the polling place on election day.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 31, § 6, effective February 18.

1-13.5-803. Ballots - electronic voting.

(1) Ballot pages or ballot cards placed upon voting devices shall be, so far as practicable, in the same order of arrangement as provided for paper ballots; except that the pages or cards shall be of the size and design required by the vote recorder or the electronic vote counting equipment, as applicable, and may be printed on a number of separate pages that are placed on the voting device or on one or more ballot cards.

(2) If votes are recorded on a ballot card, a separate write-in ballot may be provided, which shall be in the form of a paper ballot on which the eligible elector may write in the titles of the office and the names of persons not on the printed ballot for whom he or she wishes to vote.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 31, § 6, effective February 18.

1-13.5-804. Preparation for use - electronic voting.

(1) Prior to an election in which an electronic voting system will be used, the designated election official shall:

(a) Have the vote recorders or punching devices, or both, as applicable, prepared for voting; and

(b) Inspect and determine that each recorder or device is in proper working order; and

(c) Cause a sufficient number of such recorders or devices to be delivered to each polling place in which the electronic voting system is to be used.

(2) The designated election official shall supply each polling place in which vote recorders or voting devices are to be used with a sufficient number of ballot cards, sample ballots, ballot boxes, write-in ballots, if required, and other supplies and forms as may be required. Each ballot card shall have a serially numbered stub attached, which the election judge shall remove before the card is deposited in the ballot box.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 31, § 6, effective February 18.

1-13.5-805. Instructions to vote.

In case any eligible elector, after commencing to vote, asks for further instructions concerning the manner of voting, an election judge shall give such instructions to the elector; but no judge or other election officer or person assisting such elector shall request, suggest, or seek to persuade or induce any such elector to vote for any particular candidate or for or against any particular ballot issue or ballot question. After receiving such instructions, the elector shall vote as in the case of an unassisted voter.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 32, § 6, effective February 18.

1-13.5-806. Ballots.

The designated election official shall provide sufficient ballots for every election in which an electronic voting system is used.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 32, § 6, effective February 18.

1-13.5-807. Distribution of ballots - receipt - filing.

In a local government election in which an electronic voting system is used, the designated election official shall distribute to the election judges in the respective polling places a sufficient number of ballots. The ballots must be placed in one or more sealed packages for each polling place with marks on the outside of each stating clearly the polling place for which it is intended and the number of ballots enclosed. Such package shall be delivered to one of the election judges of such polling place no later than the day before the election. A receipt for the delivered ballots must be given by the election judge who received them. The receipt must be filed with the designated election official, who shall also keep a record of the time and manner in which each of said packages was sent and delivered.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 32, § 6, effective February 18.

1-13.5-808. Instruction cards - posting - content.

(1) The designated election official shall furnish to the election judges of each polling place a sufficient number of instruction cards to guide eligible electors in preparing their ballots. The election judges shall post at least one card in each polling place on the day of election. The cards shall be printed in large, clear type and contain full instructions to the elector as to what should be done:

(a) To obtain a ballot for voting;

(b) To prepare the ballot for deposit in the ballot box;

(c) To obtain a new ballot in the place of one spoiled by accident or mistake; and

(d) To obtain assistance in marking ballots.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 32, § 6, effective February 18.

1-13.5-809. Close of polls - ballot return - transfer box - delivery.

(1) After the polls close, the election judges shall secure the vote recorders or the voting devices, as applicable, against further use and prepare a ballot return in duplicate showing the number of voters as indicated by the pollbook who have voted in the polling place, the number of official ballot cards received, and the number of spoiled and unused ballot cards returned.

(2) The original copy of the ballot return prepared pursuant to subsection (1) of this section shall be deposited in a durable transfer box along with all voted and spoiled ballots. The transfer box shall then be sealed in such a way as to prevent tampering with the box or its contents, using a numbered seal provided by the designated election official. One judge shall deliver the sealed transfer box to the counting center or other place identified by the designated election official.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 33, § 6, effective February 18.

1-13.5-810. Testing of electronic ballot counting equipment.

(1) The designated election official shall have the electronic ballot counting equipment tested pursuant to subsection (2) of this section to ascertain that it will accurately count the votes cast for all offices and all measures.

(2) (a) The electronic ballot counting equipment shall be tested at least three times, once on the day before the election, once just prior to the start of the count on election day, and finally at the conclusion of the counting. The designated election official may conduct any additional tests he or she deems necessary.

(b) The designated election official shall vote and retain at least twenty-five test ballots, observe the tabulation of all test ballots by means of the electronic ballot counting equipment, and compare the tabulation with the previously retained records of the test vote count. The cause of any discrepancies shall be corrected prior to the actual vote tabulation.

(3) (a) All test materials, when not in use, must be kept in a secure location.

(b) After the final conclusion of the counting, all programs, test materials, and ballots must be sealed and retained as provided for paper ballots.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 33, § 6, effective February 18.

1-13.5-811. Electronic vote counting - procedure.

(1) All proceedings at the counting center must be under the direction of the designated election official and must be conducted under the observation of watchers, so far as practicable; but no unauthorized person may touch any ballot or ballot card or return. If any ballot is damaged or defective so that it cannot properly be counted by the electronic vote counting equipment, a true duplicate copy shall be made of the damaged ballot in the presence of two election judges. The duplicate ballot must be substituted for the damaged ballot. All duplicate ballots shall be clearly labeled as such and shall bear a serial number, which is recorded on the damaged ballot.

(2) When certified by the designated election official, the return printed by the electronic vote counting equipment, to which have been added write-in votes, constitutes the official return of each polling place. The designated election official may from time to time release unofficial returns. Upon completion of the count, the official returns are open to the public.

(3) Absentee ballots must be counted at the counting center in the same manner as ballots voted at the polling place. Valid write-in votes may be counted at the polling place by the election judges or at the counting center.

(4) If for any reason it becomes impracticable to count all or a part of the ballots with electronic vote counting equipment, the designated election official may direct that the ballots be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(5) The receiving, opening, and preservation of the transfer boxes and their contents are the responsibilities of the designated election official, who shall provide adequate personnel and facilities to assure accurate and complete election results. Any indication of tampering with the ballots or ballot cards or other fraudulent action must be immediately reported to the district attorney, who shall immediately investigate the action and report his or her findings within ten days to the designated election official and, subject to prosecutorial discretion, shall prosecute to the full extent of the law any person responsible for the fraudulent action. The conduct of local government elections when electronic voting systems are used must follow, as nearly as practicable, the conduct of general and primary elections when such systems are used.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 34, § 6, effective February 18.

1-13.5-812. Election laws pertaining to use of electronic voting systems - separate absentee ballots permitted.

A local government may use the provisions of part 6 of article 5 of this title not inconsistent with this article for elections conducted under this article in which electronic voting systems are used in polling places. Nothing in this article prohibits the use of a separate paper ballot by absentee voters.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 34, § 6, effective February 18.

PART 9

PAPER BALLOTS

1-13.5-901. Ballot boxes.

The governing body of each local government using paper ballots shall provide at least one ballot box for each polling place. Each ballot box shall be strongly constructed so as to prevent tampering, with a small opening at the top and with a lid to be locked. The ballot boxes and keys or seals shall be kept by the designated election official and delivered to the election judges within one day immediately preceding any local government election, to be returned as provided in section 1-13.5-614. Nothing in this section prevents the governing body from obtaining ballot boxes from the office of the county clerk and recorder.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 35, § 6, effective February 18.

1-13.5-902. Ballots and sample ballots - delivery - format.

(1) (a) The designated election official of each local government using paper ballots shall provide printed ballots for the local government election. The official ballots shall be printed and in the possession of the designated election official at least thirty days before the election.

(b) In addition to the requirements of paragraph (a) of this subsection (1), sample ballots must be printed in the form of the official ballots and are subject to public inspection. The sample ballots must be printed upon paper of a different color from the official ballots. Sample ballots must be delivered to the election judges and posted with the instruction cards provided under section 1-13.5-906.

(2) Every ballot must contain the names of all duly nominated candidates for the offices to be voted for at that election, except those who have died or withdrawn, and the ballot must contain no other names. The names of the candidates for each office must be printed on the ballot without political party designation and without any title or degree designating the business or profession of the candidate. The names must be arranged by lot by the designated election official at any time prior to the certification of the ballot. The designated election official shall notify the candidates of the time and place of the lot drawing.

(3) The ballots must be printed so as to give to each eligible elector a clear opportunity to designate his or her choice of candidates, ballot issues, and ballot questions by a mark as instructed. Words may be printed on the ballot that will aid the elector, such as "vote for not more than one".

(4) At the end of the list of candidates for each different office, there must be one or more blank spaces in which the elector may write the name of any eligible person not printed on the ballot who has filed an affidavit of intent to be a write-in candidate pursuant to section 1-13.5-305. The number of spaces provided shall be the lesser of the number of eligible electors who have properly filed an affidavit of intent to be a write-in candidate or the number of persons to be elected to the office. No such blank spaces shall be provided if no eligible person properly filed an affidavit of intent to be a write-in candidate.

(5) The names of the candidates for each office must be arranged under the designation of the office. The designated election official shall not print, in connection with any name, any title or degree designating the business or profession of the candidate. Each candidate's name may include one nickname if the candidate regularly uses the nickname and the nickname does not include any part of a political party name.

(6) If no candidate is duly nominated and no person properly files an affidavit of intent to be a write-in candidate for an office, the following text must appear under the designation of the office: "There are no candidates for this office".

(7) (a) Whenever the approval of a ballot issue or ballot question is submitted to the vote of the people, the ballot issue or question must be printed on the ballot following the lists of candidates. Ballot issues and ballot questions must be listed in the following order, as applicable: Issues to increase taxes, issues to increase debt, citizen petitions, and other referred measures.

(b) The ballot issue or question must be identified by the name of the local government submitting the ballot issue or question followed by a letter.

(8) (a) The extreme top part of each ballot must be divided by two perforated or dotted lines into two spaces, each of which must be not less than one inch in width, the top portion being known as the stub and the next portion as the duplicate stub. Upon each of said stubs nothing is to be printed except the number of the ballot, and the same number must be printed on both stubs. Stubs and duplicate stubs of ballots must both be numbered consecutively. There must be

printed on the stub of an absentee ballot "Absentee Ballot Number [...]", and such stubs must be numbered consecutively beginning with number one. All ballots must be uniform and of sufficient length and width to allow for the names of candidates and the proposed questions to be printed in clear, plain type with a space of at least one-half inch between the different columns on said ballot. On each ballot must be printed the endorsement "official ballot for . . .", and after the word "for" must follow the designation of the local government for which the ballot is prepared, the date of the election, and a facsimile of the signature of the designated election official. The ballot shall not contain any caption or other endorsement or number. Each designated election official shall use precisely the same quality and tint of paper, the same kind of type, and the same quality and tint of plain black ink for all ballots furnished by the designated election official at one election.

(b) A duplicate stub is not required for a ballot that is prepared for an independent mail ballot election pursuant to part 11 of this article.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 35, § 6, effective February 18. **L. 2016:** (8) amended, (HB 16-1442), ch. 313, p. 1268, § 8, effective August 10.

1-13.5-903. Correction of errors.

(1) The designated election official shall correct, without delay, any errors in publication or in sample or official ballots that are discovered or brought to the official's attention and that can be corrected without interfering with the timely distribution of the ballots.

(2) If it appears by verified petition of a candidate or the candidate's agent submitted to any district court that an error or omission occurred in the publication of the names or description of the candidates or in the printing of sample or official election ballots and the error has been brought to the attention of the designated election official and not been corrected, the court shall issue an order requiring the designated election official to correct the error immediately or to show cause why the error should not be corrected. Costs, including reasonable attorney fees, may be assessed in the discretion of the court against either party.

(3) If, before the date set for election, a duly nominated candidate withdraws by filing an affidavit of withdrawal with the designated election official, or dies and the fact of the death becomes known to the designated election official before the ballots are printed, the name of the candidate will not be printed on the ballots. If the ballots are already printed, the votes cast for the withdrawn or deceased candidate are invalid and will not be counted.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 36, § 6, effective February 18.

1-13.5-904. Printing and distribution of ballots.

In local government elections in which paper ballots are used, the designated election official shall cause to be printed or copied and distributed to the election judges in each respective polling place a sufficient number of ballots. The ballots shall be sent in one or more sealed packages for each polling place, with marks on the outside of each clearly stating the polling place for which it is intended and the number of ballots enclosed. The packages must be delivered to one of the election judges of each polling place no later than the day before the election. The election judge who receives the ballots thus delivered shall give receipt for them, which receipt must be filed with the designated election official, who shall also keep a record of the time and manner in which each of said packages was sent and delivered. The election judge receiving the package shall produce the same, with the seal unbroken, in the proper polling place at the opening of the polls on election day and, in the presence of all election judges for the polling place, shall open the package.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 37, § 6, effective February 18.

1-13.5-905. Substitute ballots.

If the ballots to be furnished to any election judge are not delivered by 8 p.m. on the day before election day, or if after delivery they are destroyed or stolen, the designated election official shall see that other ballots are prepared, as nearly in the form prescribed as practicable, with the word "substitute" printed in brackets immediately under the facsimile signature of the designated election official. Upon receipt of the substitute ballots, accompanied by a written and sworn statement of the designated election official that the same have been so prepared and furnished by him or her and that the original ballots were not received or were destroyed or stolen, the election judges shall use the substitute ballots at the election. If for any cause none of the official ballots or substitute ballots prepared by the designated election official are ready for distribution at any polling place, or if the supply of ballots is exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, may be used until substitutes prepared by the designated election official are printed and delivered.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 37, § 6, effective February 18.

1-13.5-906. Instruction cards - content.

(1) The designated election official shall furnish to the election judges of each polling place a sufficient number of instruction cards to guide electors in preparing their ballots. The election judges shall post at least one card in each polling place on the day of the election. Such cards shall be printed in large, clear type and contain full instructions to the electors about how to:

(a) Obtain ballots for voting;

(b) Prepare the ballot for deposit in the ballot box;

(c) Obtain a new ballot in the place of one spoiled by accident or mistake; and

(d) Obtain assistance in marking ballots.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 38, § 6, effective February 18.

PART 10

ABSENTEE VOTING

1-13.5-1001. When absentee electors may vote.

Any eligible elector of a local government may cast an absentee voter's ballot at the election in the manner provided in sections 1-13.5-1002 to 1-13.5-1007.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 38, § 6, effective February 18.

ANNOTATION

Annotator's note. The following annotations include a case decided under former provisions similar to this section.

The provision for absentee voting is constitutional. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

The provision for absentee voting was enacted for the purpose of procuring a fuller expression of the public will at the ballot box. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

1-13.5-1002. Application for absentee voter's ballot - delivery - list.

(1) (a) (I) Requests for an application for an absentee voter's ballot may be made orally or in writing. The application may be in the form of a letter. The application may request that the applicant be added to the permanent absentee voter list for the local government.

(II) Applications for absentee voters' ballots shall be filed in writing and be personally signed by the applicant or a family member related by blood, marriage, civil union, or adoption to the applicant. If the applicant is unable to sign the application, the applicant shall make such applicant's mark on the application, which must be witnessed in writing by another person.

(b) The application must be filed with the designated election official not later than the close of business on the Tuesday immediately preceding the next local government election in which the absentee voter wishes to vote by absentee voter's ballot.

(2) (a) Upon timely receipt of an application for an absentee voter's ballot, the designated election official receiving it shall examine the records of the county clerk and recorder or county assessor, as appropriate, to ascertain whether or not the applicant is registered and lawfully entitled to vote as requested.

(b) If the person is found to be so entitled, the designated election official shall deliver, as soon as practicable but not more than seventy-two hours after the blank ballots have been received, an official absentee voter's ballot, an identification return envelope with the affidavit or the envelope properly filled in as to address of residence as shown by the records of the county clerk and recorder, and an instruction card. The identification return envelope must state "Do not forward. Address correction requested." or any other similar statement that is in accordance with United States postal service regulations. The delivery must be made to the applicant either personally in the designated election official's office or by mail to the mailing address given in the application for an official absentee voter's ballot.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 38, § 6, effective February 18. **L. 2016:** (1)(b) and (2)(b) amended, (HB 16-1442), ch. 313, p. 1268, § 9, effective August 10.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Absentee voter statutes must be strictly construed, and a voter who wishes to cast such a ballot must comply exactly with all applicable statutory requirements. Jardon v. Meadowbrook-Fairview Metro. Dist., 190 Colo. 528, 549 P.2d 762 (1976).

Findings that voters came within the application requirements not disturbed

on review. Israel v. Wood, 98 Colo. 495, 56 P.2d 1324 (1936).

1-13.5-1003. Application for permanent absentee voter status.

(1) Any eligible elector of a political subdivision may apply for permanent absentee voter status. The application for permanent absentee voter status must be made in writing or by facsimile using an application form or letter furnished by the designated election official of the political subdivision. The application must contain the same information submitted in connection with an application for an absentee voter's ballot pursuant to section 1-13.5-1002.

(2) Upon receipt of an application for permanent absentee voter status, the designated election official shall process the application in the same manner as an application for an absentee voter's ballot. If the designated election official determines that the applicant is an eligible elector, the designated election official shall place the eligible elector's name on the list maintained by the political subdivision pursuant to section 1-13.5-1004 of those eligible electors to whom an absentee voter's ballot is mailed every time there is an election conducted by the political subdivision for which the eligible elector has requested permanent absentee voter status.

(3) If there is no designated election official presently appointed in the local government, the secretary of the local government shall process the application for permanent absentee status in accordance with subsections (1) and (2) of this section.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 39, § 6, effective February 18. **L. 2016:** (3) added, (HB 16-1442), ch. 313, p. 1269, § 10, effective August 10.

1-13.5-1004. List of absentee voters' ballots - removal from list.

(1) The designated election official shall keep a list of names of eligible electors who have applied for absentee voters' ballots and of those permanent absentee voters placed on the list pursuant to section 1-13.5-1003 (2), with the date on which each application was made, the date on which the absentee voter's ballot was sent, and the date on which each absentee voter's ballot was returned. If an absentee voter's ballot is not returned, or if it is rejected and not counted, that fact must be noted on the list. The list is open to public inspection under proper regulations.

(2) (a) An eligible elector whose name appears on the list as a permanent absentee voter must remain on the list and must be mailed an absentee voter's ballot for each election conducted by the political subdivision for which the eligible elector has requested permanent absentee voter status.

(b) An eligible elector must be deleted from the permanent absentee voter list if:

(I) The eligible elector notifies the designated election official that he or she no longer wishes to vote by absentee voter's ballot;

(II) The absentee voter's ballot sent to the eligible elector is returned to the designated election official as undeliverable;

(III) The eligible elector has been deemed "Inactive" pursuant to section 1-2-605; or

(IV) The person is no longer eligible to vote in the political subdivision.

(3) The designated election official shall keep a list of the names of eligible electors applying for an absentee voter's ballot, the number appearing on the stub of the ballot issued to such eligible elector, and the date the ballot is delivered or mailed. This information may be recorded on the registration record or registration list before the registration book or list is delivered to the election judges. A separate list of the eligible electors who have received absentee voter's ballots must be delivered to the election judges in the polling place designated for counting absentee voter's ballots, or, if the designated election official elects to deliver absentee voters' envelopes received from electors to the election judges of such polling place, as provided by section 1-13.5-1006, a separate list of the eligible electors who have received absentee voter's ballots must be delivered to the election judges of each such polling place.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 39, § 6, effective February 18.

1-13.5-1005. Self-affirmation on return envelope.

(1) The return envelope for an absentee voter's ballot must have printed on its face a self-affirmation substantially in the form provided in section 1-13.5-605 (1).

(2) If applicable, the self-affirmation provided in section 1-13.5-605 (2) may be substituted for the self-affirmation in section 1-13.5-605 (1).

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 40, § 6, effective February 18.

1-13.5-1006. Manner of absentee voting by paper ballot.

(1) Any eligible elector applying for and receiving an absentee voter's ballot, in casting the ballot, shall make and subscribe to the self-affirmation on the return envelope. The voter shall then mark the ballot. The voter shall fold the ballot so as to conceal the marking, deposit it in the return envelope, and seal the envelope securely. The envelope may be delivered personally or mailed by the voter to the designated election official issuing the ballot. It is permissible for a

voter to deliver the ballot to any person of the voter's own choice or to any duly authorized agent of the designated election official for mailing or personal delivery to the designated election official. To be counted, all envelopes containing absentee voter's ballots must be in the hands of the designated election official or an election judge for the local government not later than 7 p.m. on election day.

(2) Upon receipt of an absentee voter's ballot, the designated election official or an election judge shall write or stamp on the envelope containing the ballot the date and hour that the envelope was received and, if the ballot was delivered in person, the name and address of the person delivering the same. The designated election official or election judge shall safely keep and preserve all absentee voter's ballots unopened until the time prescribed for delivery to the judges as provided in section 1-13.5-1008.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 40, § 6, effective February 18.

ANNOTATION

I. General Consideration.

II. Casting Absentee Ballots.

III. Duty of Election Official.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Statutory requirement that state reimburse counties for costs associated with an increased level of service found in § 29-1-304.5 (1) inapplicable to requirement in subsection (1)(a) of this section that counties must provide drop-off boxes for mail-in ballots at every polling place on election day, notwithstanding that this increase in service may create additional costs to the county. Statute requiring that the costs of conducting an election be a county charge, § 1-5-505 (1), is in irreconcilable conflict with § 29-1-304.5 (1). However, § 1-5-505 (1), which pertains only to election funding, is more specific than § 29-1-304.5 (1), which broadly applies its reimbursement requirement to most existing state programs. Although § 29-1-304.5 (1) was adopted after § 1-5-505 (1), there is no manifest intent that it should prevail in a conflict with the other statute. Rather, the intent of the legislature was to prioritize citizens' access to free and fair elections over convenience or cost savings to counties. Thus, § 1-5-505 (1) should prevail over § 29-1-304.5 (1), making the unfunded mandate requirement inapplicable to the requirement of this section that counties provide drop-off boxes for mail-in ballots at every polling place on election day. Gessler v. Doty, 2012 COA 4, 272 P.3d 1131.

II. CASTING ABSENTEE BALLOTS.

A voter wishing to cast an absentee vote must comply with all the statutory demands, and the power of the board of elections is held within those lines. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

Absentee voting is in derogation of the general election law and should be strictly construed. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

For a strict construction of prescribed procedures is necessary to safeguard the exercise of the elective franchise. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

And the general assembly undoubtedly intended that a voter be held to a strict performance of the prescribed absentee voting procedures. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

Thus, execution by a voter of the affidavit is a mandatory precedent to the right to so vote, and if not furnished, the ballot should not be counted. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

However, objection to method of casting vote not considered where vote not mentioned in statement of contest. Israel v. Wood, 98 Colo. 495, 56 P.2d 1324 (1936).

III. DUTY OF ELECTION OFFICIAL.

Voter cannot be disenfranchised for clerk's mistake. A voter who has performed every act required of him cannot be disenfranchised because of irregularities or mistakes of the county clerk. Kellogg v. Hickman, 12 Colo. 256, 21 P. 325 (1888); Lehman v. Pettingell, 39 Colo. 258, 89 P. 48 (1907); Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

Election officials are presumed to comply with the law. Bullington v. Grabow, 88 Colo. 561, 298 P. 1059 (1931).

1-13.5-1007. Absentee voters' voting machines - electronic voting systems.

(1) Any local government using voting machines in a local government election may provide one or more machines in the designated election official's office for the use of qualified applicants for absentee voters' ballots. If such machines are provided, they must be available from twelve days prior to the election until the close of business on the Friday immediately preceding the election. Votes on the machines must be cast and counted in the same manner as votes would be cast and counted on a voting machine in a polling place on election day. The designated election official shall supervise the casting and counting of absentee voters' ballots on the machines. The machines shall remain locked and the tabulation of the votes cast must remain unknown until election day.

(2) Any local government using an electronic voting system may provide such system for the use of qualified applicants for absentee voters' ballots. Such system must be available from

twelve days prior to the election until the close of business on the Friday immediately preceding the election. Votes cast using such system must be cast in the same manner as votes would be cast in a polling place on election day. The designated election official shall supervise the casting and counting of absentee voters' ballots using such system.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 41, § 6, effective February 18.

1-13.5-1008. Delivery to judges.

Not later than 8:30 a.m. on the day of any local government election, the designated election official shall deliver to the election judges of one of the polling places of the local government, which polling place shall be selected by the designated election official, all the absentee voters' ballot envelopes received up to that time, in sealed packages. The designated election official shall take a receipt for the packages, together with the list of absentee voters, or, in the designated election official's discretion, the designated election official may elect to deliver the absentee voters' envelopes received from electors and the list of absentee voters to the election judges of the polling place. The designated election official shall continue to deliver any envelopes that are received thereafter during that day up to and including 7 p.m. On the sealed packages must be printed or written, "This package contains . . . (number) absentee voters' ballots." With the envelopes, the designated election official shall deliver to one of the election judges all the books, records, and supplies as are needed for tabulating, recording, and certifying said absentee voters' ballots.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 41, § 6, effective February 18.

1-13.5-1009. Casting and counting absentee voters' ballots.

If the self-affirmation on the envelope containing an absentee voter's ballot is properly sworn to, one of the election judges shall tear open the voter's identification envelope in the presence of a majority of the judges without defacing the self-affirmation printed thereon or mutilating the enclosed ballot. One of the election judges shall verify the name of the eligible elector and ballot number issued to such elector and carefully remove the stub from the ballot. The ballot must then be cast and counted in the same manner as if the absentee voter had been present in person; except that one of the judges shall deposit the ballot in the ballot box without unfolding it. The absentee vote must be counted and certified separately from the votes of the polling place where it is counted.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 42, § 6, effective February 18.

1-13.5-1010. Challenge of absentee voters' ballots - rejection - record.

(1) The vote of any absentee voter may be challenged in the same manner as other votes are challenged, and the election judges may determine the legality of such ballot. If the challenge is sustained or if the judges determine that the self-affirmation accompanying the absentee voter's ballot is insufficient or that the voter is not an eligible elector, the envelope containing the ballot of the voter shall not be opened, and the judges shall endorse on the back of the envelope the reason for rejection. When it is made to appear to the election judges by sufficient proof that any absentee voter who has marked and forwarded a ballot has died, the envelope containing the ballot of the deceased voter shall not be opened, and the judges shall make proper notation on the back of such envelope. If an absentee voter's envelope contains more than one marked ballot, none of the ballots in that envelope may be counted, and the judges shall note on the envelope the reason that the ballots were not counted. If an absentee voter's envelope does not contain all pages of a ballot, only the marked and returned pages shall be counted. Election judges shall certify in their returns the number of absentee voter's ballots cast and counted and the number of such ballots rejected.

(2) All absentee voters' envelopes, ballot stubs, and absentee voters' ballots rejected by the election judges in accordance with subsection (1) of this section must be returned to the designated election official. All absentee voters' ballots received by the designated election official after 7 p.m. on the day of the election, together with those rejected and returned by the election judges as provided in this section, must remain in the sealed identification envelopes.

(3) If an absentee voter's ballot is not returned or if it is rejected and not counted, the fact shall be noted on the record kept by the designated election official. Such record is open to public inspection under proper regulations.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 42, § 6, effective February 18.

1-13.5-1011. Emergency absentee voting - definition.

(1) (a) If an eligible elector is confined in a hospital or at his or her place of residence on election day because of conditions arising after the closing day for absentee voters' ballot applications, he or she may request, by a written statement signed by him or her, that the designated election official send him or her an emergency absentee voter's ballot. The designated election official shall deliver the emergency absentee voter's ballot, with the word "emergency" stamped or written on the stubs of the ballot, at his or her office, during the regular hours of

business, to any authorized representative of the elector possessing a written statement from the voter's physician, physician assistant authorized under section 12-240-107 (6), advanced practice registered nurse, or nurse practitioner that the voter will be confined in a hospital or his or her place of residence on election day. The authorized representative shall acknowledge receipt of the emergency absentee voter's ballot with his or her signature, name, and address.

(b) For purposes of this subsection (1), "authorized representative" means a person possessing a written statement from the elector containing the elector's signature, name, and address and requesting that the elector's emergency absentee voter's ballot be given to the authorized person as identified by name and address.

(2) A request for an emergency absentee voter's ballot under this section shall be made, and the ballot shall be returned, to the designated election official's office no later than 7 p.m. on election day.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 42, § 6, effective February 18. **L. 2016:** (1)(a) amended, (SB 16-158), ch. 204, p. 720, § 2, effective August 10. **L. 2019:** (1)(a) amended, (HB 19-1172), ch. 136, p. 1642, § 4, effective October 1.

Cross references: For the legislative declaration in SB 16-158, see section 1 of chapter 204, Session Laws of Colorado 2016.

PART 11

INDEPENDENT MAIL BALLOT ELECTIONS

1-13.5-1101. Independent mail ballot elections.

Any local government may conduct an independent mail ballot election utilizing the procedures in this part 11.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 43, § 6, effective February 18.

1-13.5-1102. Definitions.

As used in this part 11, unless the context otherwise requires:

(1) "Independent mail ballot election" means a mail ballot election that the governing body of a local government determines will not be coordinated by the county clerk and recorder.

(2) "Mail ballot packet" means the packet of information provided by the designated election official to eligible electors in the independent mail ballot election. The packet includes the ballot, instructions for completing the ballot, a secrecy envelope, and a return envelope.

(3) "Publication" means one-time printing in a newspaper of general circulation in the local government or proposed special district if there is such a newspaper, or, if not, in a newspaper in the county in which the local government or proposed special district is or will be located. For a local government with territory in more than one county, if there is no newspaper of general circulation in the local government, "publication" means the one-time printing in a newspaper of general circulation in each county in which the local government is located and in which fifty or more eligible electors of the local government resides.

(4) "Return envelope" means an envelope that is printed with spaces for the name and address of, and a self-affirmation substantially in the form described in section 1-13.5-605 (1) to be signed by, an eligible elector voting in an independent mail ballot election, into which envelope must fit a secrecy envelope. A return envelope must be designed to allow election officials, upon examining the signature, name, and address on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

(5) "Secrecy envelope" means the envelope or sleeve used for an independent mail ballot election that contains the eligible elector's ballot for the election and that is designed to conceal and maintain the confidentiality of the elector's vote until the counting of votes for that particular election.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 43, § 6, effective February 18. **L. 2016:** (1) amended, (HB 16-1442), ch. 313, p. 1269, § 11, effective August 10.

1-13.5-1103. Independent mail ballot elections - optional - cooperation with county clerk and recorder permitted - exception.

(1) If the governing body of any local government determines that an election shall be by independent mail ballot, the designated election official for the local government shall conduct the election by mail ballot pursuant to this part 11.

(2) Nothing in this part 11 requires that any election be conducted by mail ballot.

(3) Notwithstanding the fact that an independent mail ballot election is an election that is not coordinated by a county clerk and recorder, the designated election official of a local government

and the county clerk and recorder may, by agreement, cooperate on any election procedure or notice.

(4) Notwithstanding any provision of this article to the contrary, the designated election official of a local government shall mail a ballot to every eligible elector of the local government who resides within the boundaries of the local government and who is a covered voter, as that term is defined in section 1-8.3-102, for any election conducted under this article.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 44, § 6, effective February 18. **L. 2016:** (4) amended, (HB 16-1442), ch. 313, p. 1269, § 12, effective August 10.

1-13.5-1104. Preelection process - notification of independent mail ballot election - plan required - duties of designated election official.

(1) The designated election official responsible for conducting an election that is to be by independent mail ballot pursuant to this part 11 shall, no later than fifty-five days prior to the election, have on file at the principal office of the local government or designated election official a plan for conducting the independent mail ballot election. The plan is a public record.

(2) The designated election official shall supervise the distributing, handling, and counting of ballots and the survey of returns, and shall take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election.

(3) No elector information may be delivered to an elector in the form of a sample ballot.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 44, § 6, effective February 18.

1-13.5-1105. Procedures for conducting independent mail ballot election.

(1) Official ballots must be prepared and all other preelection procedures followed as otherwise provided by law; except that mail ballot packets must be prepared in accordance with this part 11.

(2) (a) Except for coordinated elections conducted pursuant to an intergovernmental agreement as a mail ballot election where the county clerk and recorder is the coordinated election official under the "Uniform Election Code of 1992", articles 1 to 13 of this title, no later than thirty days prior to election day, the county clerk and recorder in which the local government is located shall submit to the designated election official conducting the independent mail ballot election a complete preliminary list of registered electors. For special district

independent mail ballot elections, the county clerk and recorder and county assessor of each county in which a special district is located shall certify and submit to the designated election official a property owners list and a list of registered electors residing within the affected district.

(b) Not later than twenty days prior to election day, the county clerk and recorder and, if appropriate, county assessor, required to submit a preliminary list in accordance with paragraph (a) of this subsection (2) shall submit to the designated election official a supplemental list of the names of eligible electors or property owners who registered to vote on or before twenty-two days prior to the election and whose names were not included on the preliminary list.

(c) All registered electors' names and property owners lists provided to a designated election official under this section shall include the last mailing address of each elector.

(d) (I) No later than twenty days before an election, the designated election official, or the coordinated election official if so provided by an intergovernmental agreement, shall provide notice by publication of an independent mail ballot election conducted pursuant to this article, which notice shall state, as applicable for the particular election for which the notice is provided, the information set forth in section 1-13.5-502.

(II) The notice required to be given by this paragraph (d) is in lieu of the notice requirements set forth in section 1-13.5-502.

(3) Subsequent to the preparation of ballots, but prior to the mailing required under subsection (4) of this section, a designated election official shall provide a mail ballot to an eligible elector requesting the ballot at the office designated in the mail ballot plan.

(4) (a) Not sooner than twenty-two days before an election, and no later than fifteen days before an election, the designated election official shall mail to each active registered elector and any electors who are authorized to vote pursuant to section 1-13.5-202 or other applicable law, at the last mailing address appearing in the registration records and in accordance with United States postal service regulations, a mail ballot packet marked "Do not forward. Address correction requested.", or any other similar statement that is in accordance with United States postal service regulations.

(b) The ballot or ballot label must contain the following warning:

Warning:

Any person who, by use of force or other means, unduly influences an eligible elector to vote in any particular manner or to refrain from voting, or who falsely makes, alters, forges, or counterfeits any mail ballot before or after it has been cast, or who destroys,

defaces, mutilates, or tampers with a ballot is subject, upon conviction, to imprisonment, or to a fine, or both.

(c) (I) The return envelope must have printed on it a self-affirmation substantially in the form provided in section 1-13.5-605 (1).

(II) The signing of the self-affirmation on the return envelope constitutes an affirmation by the eligible elector to whom the ballot was provided, under penalty of perjury, that the facts stated in the self-affirmation are true. If the eligible elector is unable to sign, the eligible elector may affirm by making a mark on the self-affirmation, with or without assistance, that is witnessed by another person who signs as witness where indicated on the return envelope.

(III) Repealed.

(d) Not sooner than twenty-two days prior to election day, and until 7 p.m. on election day, mail ballots must be made available at the office designated in the mail ballot plan for eligible electors who are not listed or who are listed as "Inactive" on the county voter registration records or, for special district independent mail ballot elections, not listed on the property owners list or the registration list but who are authorized to vote pursuant to section 1-13.5-202 or other applicable law.

(e) (I) An eligible elector may obtain a replacement ballot if his or her original ballot was destroyed, spoiled, lost, or for any other reason not received by the eligible elector. An eligible elector may obtain a ballot if a mail ballot packet was not sent to the elector because the eligibility of the elector could not be determined at the time the mail ballot packets were mailed. In order to obtain a ballot, the eligible elector must sign a sworn statement specifying the reason for requesting the ballot, which statement must be presented to the designated election official no later than 7 p.m. on election day. The designated election official shall keep a record of each ballot issued in accordance with this paragraph (e) with a list of each ballot obtained pursuant to paragraph (d) of this subsection (4).

(II) A designated election official or election judge shall not transmit a mail ballot packet under this paragraph (e) unless a sworn statement requesting the ballot is received on or before election day. A ballot may be transmitted directly to the eligible elector requesting the ballot at the office designated in the mail ballot plan or may be mailed to the eligible elector at the address provided in the sworn statement. Such ballots may be cast no later than 7 p.m. on election day.

(5) (a) Upon receipt of a ballot, the eligible elector shall mark the ballot, sign and complete the self-affirmation on the return envelope, and comply with the instructions provided with the ballot.

(b) The eligible elector may return the marked ballot to the designated election official by United States mail or by depositing the ballot at the office of the official or any place identified in the mail ballot plan by the designated election official. The ballot must be returned in the return envelope. If an eligible elector returns the ballot by mail, the elector must provide postage. The ballot must be received at the office identified in the mail ballot plan or an identified depository, which must remain open until 7 p.m. on election day. The depository must be identified by the designated election official and located in a secure place under the supervision of the designated election official, an election judge, or another person named by the designated election official.

(6) Once the ballot is returned, an election judge shall first qualify the submitted ballot by comparing the information on the return envelope with the registration records and property owners list, as applicable, to determine whether the ballot was submitted by an eligible elector who has not previously voted in the election. If the ballot qualifies and is otherwise valid, the election judge shall indicate in the pollbook that the eligible elector cast a ballot and deposit the ballot in an official ballot box.

(7) All deposited ballots shall be counted as provided in this part 11. A mail ballot is valid and shall be counted only if it is returned in the return envelope, the self-affirmation on the return envelope is signed and completed by the eligible elector to whom the ballot was issued, and the information on the return envelope is verified in accordance with subsection (6) of this section. Mail ballots shall be counted in the same manner as provided by section 1-13.5-609 for counting paper ballots or section 1-13.5-708 or 1-13.5-811 for counting electronic ballots. If the election judge or designated election official determines that an eligible elector to whom a replacement ballot has been issued has voted more than once, the first ballot returned by the elector shall be considered the elector's official ballot. Rejected ballots shall be handled in the same manner as provided in section 1-13.5-1010.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 45, § 6, effective February 18. **L. 2016:** (3), (4)(d), (4)(e)(II), and (5)(b) amended, (SB 16-142), ch. 173, p. 589, § 73, effective May 18; (4)(c)(III) repealed, (HB 16-1442), ch. 313, p. 1269, § 13, effective August 10. **L. 2021:** (4)(a) amended, (SB 21-160), ch. 133, p. 538, § 5, effective September 7.

1-13.5-1105.5. Voting by electors at group residential facilities.

For independent mail ballot elections conducted under this part 11, upon the request of any eligible elector of the local government residing in a facility described in section 1-7.5-113 (1), the designated election official shall appoint a committee for delivery of mail ballots to, and return of voted mail ballots from, the facility in accordance with section 1-7.5-113.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 48, § 6, effective February 18.

1-13.5-1106. Delivery of misdelivered ballots.

(1) If an elector delivers a ballot, mail ballot, or absentee voter's ballot to the designated election official, polling place, or election judge of another local government, or to the county clerk and recorder, the recipient may accept the ballot and, if accepted, must arrange for its delivery to the proper person by 7 p.m. on election day. The reasonable cost of such delivery must be paid by the local government conducting the election in which the voter intended to cast the ballot.

(2) If the error in delivery of a ballot is discovered too late for delivery by 7 p.m. on election day, the ballot must be mailed to the proper designated election official and maintained as an election record, but not counted.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 48, § 6, effective February 18. **L. 2016:** (1) amended, (HB 16-1442), ch. 313, p. 1269, § 14, effective August 10.

1-13.5-1107. Counting mail ballots.

The election officials at the mail ballot counting place shall receive and prepare mail ballots delivered and turned over to them by the election judges for counting. Counting of the mail ballots may begin fifteen days prior to the election and continue until counting is completed. The election official in charge of the mail ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 48, § 6, effective February 18.

1-13.5-1108. Write-in candidates.

Any write-in candidate is allowed in independent mail ballot elections if the candidate has filed an affidavit of intent with the designated election official as required by law.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 48, § 6, effective February 18.

1-13.5-1109. Challenges.

Votes cast pursuant to this part 11 may be challenged pursuant to and in accordance with law, including the challenge and rejection of ballot provisions set forth in section 1-13.5-1010. Any independent mail ballot election conducted pursuant to this part 11 will not be invalidated on the grounds that an eligible elector did not receive a ballot so long as the designated election official for the political subdivision conducting the election acted in good faith in complying with this part 11.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 48, § 6, effective February 18.

PART 12

CHALLENGE OF PERSONS VOTING

1-13.5-1201. No voting unless eligible.

Unless otherwise permitted pursuant to section 1-13.5-605, no person is permitted to vote at any local government election unless his or her name is found on the registration list or property owners list, if applicable, or unless the person's registration or property ownership is confirmed orally as provided by section 1-13.5-605 (3).

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 49, § 6, effective February 18.

1-13.5-1202. Right to vote may be challenged.

(1) When any person whose name appears on the registration list or property owners list applies for a ballot, his or her right to vote at that election may be challenged. If the person applying is not entitled to vote, no ballot shall be delivered to him or her. Any person may also be challenged when he or she offers a ballot for deposit in the ballot box.

(2) It is the duty of any election judge to challenge any person offering to vote who he or she believes is not an eligible elector. In addition, challenges may be made by watchers or any eligible elector of the local government who is present.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 49, § 6, effective February 18.

1-13.5-1203. Challenge to be made by written oath.

Each challenge must be made by written oath, signed by the challenger under penalty of perjury, setting forth the name of the person challenged and the basis for the challenge. The election judges shall deliver all challenges and oaths to the designated election official at the time the other election papers are returned. The designated election official shall deliver all challenges and oaths to the district attorney for investigation and appropriate action as soon as possible.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 49, § 6, effective February 18.

1-13.5-1204. Challenge questions asked.

(1) If a person offering to vote is challenged as unqualified, one of the election judges shall tender to him or her the following written oath or affirmation: "You do solemnly swear or affirm that you will fully and truly answer all such questions as are put to you regarding your place of residence and qualifications as an eligible elector at this election."

(2) If the person is challenged as unqualified on the ground that he or she is not a citizen and will not exhibit papers pertaining to naturalization, an election judge shall ask the following question: "Are you a citizen of the United States?"

(3) If the person is challenged as unqualified on the ground that he or she is not a resident of the local government, an election judge shall ask the following questions:

(a) "Have you resided in the local government immediately preceding this election?"

(b) "Have you been absent from the local government immediately preceding this election, and during that time have you maintained a home or domicile elsewhere?"

(c) "If so, when you left, was it for a temporary purpose with the intent of returning, or did you intend to remain away?"

(d) "Did you, while absent, look upon and regard this state as your home?"

(e) "Did you, while absent, vote in any other state or territory?"

(4) If the person is challenged as ineligible because the person is not a property owner or the spouse or civil union partner of a property owner, an election judge shall ask the following questions:

(a) "Are you a property owner or the spouse or civil union partner of a property owner in this political subdivision and therefore eligible to vote?"

(b) "What is the address or, for special district elections where an address is not available, the location of the property that entitles you to vote in this election?"

(5) If the person is challenged as unqualified on the ground that the person is not eighteen years of age, an election judge shall ask the following question: "Are you eighteen years of age or over to the best of your knowledge and belief?"

(6) An election judge shall put all other questions to the person challenged as may be necessary to test the person's qualifications as an eligible elector at the election.

(7) If the person challenged answers satisfactorily all of the questions put to him or her, the person shall sign his or her name on the form of the challenge after the printed questions. The election judges shall indicate in the proper place on the form of challenge whether the challenge was withdrawn and whether the challenged voter refused to answer the questions and left the polling place without voting.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 49, § 6, effective February 18.

1-13.5-1205. Oath of person challenged.

(1) If the challenge is not withdrawn after the person offering to vote has answered the questions asked pursuant to section 1-13.5-1204, one of the election judges shall tender the following oath:

> You do solemnly swear or affirm that you are a citizen of the United States of the age of eighteen years or over; that you have been a resident of this local government and have not retained a home or domicile elsewhere, or that you or your spouse or civil union partner are owners of taxable real or personal property within the local government; that you are a registered elector of this state; and that you have not previously voted at this election.

(2) After the person has taken the oath or affirmation, his or her ballot must be received and the word "sworn" must be written on the pollbook after the person's name.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 50, § 6, effective February 18.

1-13.5-1206. Refusal to answer questions or take oath.

If the challenged person refuses to answer fully any question which is put to him or her as provided in section 1-13.5-1204 or refuses to take the oath or affirmation tendered as provided in section 1-13.5-1205, the election judges shall reject the challenged person's vote.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 51, § 6, effective February 18.

PART 13

SURVEY OF RETURNS

1-13.5-1301. Survey of returns - canvass board.

(1) At least fifteen days before any election, the designated election official shall appoint at least one member of the governing body of a local government, and at least one eligible elector of the local government who is not a member of that body, to assist the designated election official in the survey of returns. The persons so appointed and the designated election official constitute the canvass board for the election.

(2) To the fullest extent possible, no member of the canvass board nor the member's spouse or civil union partner shall have a direct interest in the election.

(3) If, for any reason, any person appointed as a member of the canvass board refuses, fails, or is unable to serve, that appointed person shall notify the designated election official, who shall appoint another person that possesses the same qualifications as the original appointee as directed under subsection (1) of this section, if available, to the canvass board.

(4) Each canvass board member who is not a member of the governing body shall receive a minimum fee of fifteen dollars for each day of service. The fee shall be set by the designated election official and paid by the local government for which the service is performed.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 51, § 6, effective February 18.

1-13.5-1302. Imperfect returns.

If the canvass board finds that the returns from any polling place do not strictly conform to the requirements of law in the making, certifying, and returning of the returns, the votes cast in that

polling place nevertheless must be canvassed and counted if such returns are sufficiently explicit to enable the persons authorized to canvass votes and returns to determine how many votes were cast for each candidate, ballot issue, or ballot question.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 51, § 6, effective February 18.

1-13.5-1303. Corrections.

If, upon proceeding to canvass the votes, it clearly appears to the canvass board that in any statement produced to them certain matters are omitted that should have been inserted or that any mistakes which are merely clerical exist, the canvass board shall send the statement to the election judges from whom they were received to have the mistakes corrected. The election judges, when so demanded, shall make such corrections as the facts of the case require, but shall not change or alter any decision made before by them. The canvass board may adjourn from day to day for the purpose of obtaining and receiving the statement.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 51, § 6, effective February 18.

1-13.5-1304. Tie - lots - notice to candidates.

If any two or more candidates receive an equal and highest number of votes for the same office, and if there are not enough offices remaining for all such candidates, the canvass board shall determine by lot the person who shall be elected. Reasonable notice shall be given to such candidates of the time when such election will be so determined.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 52, § 6, effective February 18.

1-13.5-1305. Statement - certificates of election.

(1) No later than the fourteenth day following the election, the canvass board shall make statements from the official abstract of votes that show the names of the candidates, any ballot issue or ballot question, and the number of votes given to each. The canvass board shall certify the statement to be correct and subscribe their names thereto. The canvass board shall then determine which persons have been duly elected by the highest number of votes and shall endorse and subscribe on such statements a certificate of their determination. The designated

election official shall also file a copy of the certificate with the division of local government in the department of local affairs.

(2) The designated election official shall make and transmit to each of the persons thereby declared to be elected a certificate of the person's election.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 52, § 6, effective February 18. **L. 2016:** Entire section amended, (HB 16-1442), ch. 313, p. 1269, § 15, effective August 10.

1-13.5-1306. Recount.

(1) The designated election official shall order a recount of the votes cast in any election if it appears, as evidenced by the survey of returns, that the difference between the highest number of votes cast in the election and the next highest number of votes cast in the election is less than or equal to one-half of one percent of the highest number of votes cast in the election. Any recount conducted pursuant to this subsection (1) shall be completed no later than the twenty-eighth day following the election and shall be paid for by the governing body of the local government. The designated election official shall give notice of the recount to the governing body, to all candidates and, in the case of a ballot issue or question, to any issue committee that are affected by the result of the election. The notice must be given by any means reasonably expected to notify the affected candidates or issue committee. An affected candidate or issue committee is allowed to be present during and observe the recount.

(2) (a) Whenever a recount of the votes cast in an election is not required pursuant to subsection (1) of this section, any interested party, including an eligible elector or a candidate for office or the issue committee for a ballot issue or question, may submit to the designated election official a written request for a recount at the expense of the interested party making the request. This request shall be filed with the designated election official within seventeen days after the election.

(b) Before conducting the recount, the designated election official shall:

(I) Give notice of the recount in accordance with subsection (1) of this section;

(II) Determine the cost of the recount;

(III) Notify the interested party that requested the recount of such cost; and

(IV) Collect the actual cost of conducting the recount from such interested party.

(c) The interested party that requested the recount shall pay on demand the cost of the recount to the designated election official. The funds paid to the designated election official for the recount must be held and used for payment of all expenses incurred in the recount.

(d) If, after the recount, the result of the election is reversed in favor of the interested party that requested the recount or if the amended election count is such that a recount otherwise would have been required pursuant to subsection (1) of this section, the payment for expenses must be refunded to the interested party who paid them.

(e) Any recount of votes conducted pursuant to this subsection (2) must be completed no later than the twenty-eighth day after canvassing the election.

(f) If any leftover funds remain from the deposit paid under paragraph (c) of this subsection (2), and the recount does not change the result of the election, the designated election official shall return that unused portion of the deposit to the interested party who paid it.

(3) The designated election official is responsible for conducting the recount and shall be assisted by those persons who assisted in preparing the official abstract of votes. If those persons cannot participate in the recount, other persons shall be appointed as provided in section 1-13.5-1301. The designated election official may appoint additional persons qualified to be the election judges who did not serve as judges in the election as assistants in conducting the recount. Persons assisting in the conduct of the recount shall be compensated as provided in section 1-13.5-1301 (4).

(4) The designated election official may require the production of any documentary evidence regarding the legality of any vote cast or counted and may correct the survey of returns in accordance with the designated election official's findings based on the evidence presented.

(5) In elections using paper or electronic ballots, the recounts are of the ballots cast and the votes must be tallied on sheets other than those used at the election. In elections using voting machines, the recount is of the votes tabulated on the voting machines, and separate tally sheets must be used for each machine.

(6) After a recount conducted pursuant to this section has been completed, the designated election official shall notify the governing body of the local government conducting the election of the results of the recount, shall make a certificate of election for each candidate who received the highest number of votes for an office for which a recount was conducted, and shall deliver the certificate to such candidate.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 52, § 6, effective February 18.

PART 14

CONTESTS

1-13.5-1401. Person elected - contest - causes.

(1) The election of any person declared duly elected to any local government office may be contested by any eligible elector of the local government on the following grounds:

(a) The contestee is not eligible for the office to which he or she has been declared elected;

(b) Illegal votes have been received, or legal votes rejected, at the polls in sufficient numbers to change the results;

(c) An error or mistake was made by any of the election judges, the designated election official, or the canvass board in counting or declaring the result of the election, if the error or mistake was sufficient to change the result;

(d) Malconduct, fraud, or corruption occurred on the part of the election judges in any polling place, a canvass board member, or any designated election official or his or her assistant, if the malconduct, fraud, or corruption was sufficient to change the result; or

(e) For any other cause that shows that another candidate was the legally elected person.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 54, § 6, effective February 18.

1-13.5-1402. District judge to preside - bond.

(1) All contested election cases of local government officers shall be tried and determined in the district court of the county in which the local government is located. If the territorial boundaries of a local government overlap wholly or partially with more than one county, the district court of either county has jurisdiction. The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs and execution shall be according to the rules and practices of the district court.

(2) Before the district court is required to take jurisdiction of the contest, the contestor must file with the clerk of the court a bond, with sureties, to be approved by the district judge, running to the contestee and conditioned to pay all costs in case of failure to maintain his or her contest.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 54, § 6, effective February 18.

1-13.5-1403. Filing statement - contents.

The contestor shall file in the office of the clerk of the district court, within ten days after the expiration of the period within which a recount may be requested pursuant to section 1-13.5-1306, or within ten days after the conclusion of a recount conducted pursuant to section 1-13.5-1306, whichever is later, a written statement of the contestor's intention to contest the election and setting forth the name of the contestor, that the contestor is an eligible elector of the local government, the name of the contestee, the office contested, the time of election, and the particular causes of the contest. The statement must be verified by the affidavit of the contestor that the causes set forth in the statement are true to the best of the affiant's knowledge and belief.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 55, § 6, effective February 18. **L. 2016:** Entire section amended, (HB 16-1442), ch. 313, p. 1270, § 16, effective August 10.

1-13.5-1404. Summons - answer.

(1) If the clerk of the district court receives a statement as set forth in section 1-13.5-1403, the clerk shall issue a summons in the ordinary form, naming the contestor as plaintiff and the contestee as defendant, stating the court in which the action is brought and a brief statement of the causes of contest, as set forth in the contestor's statement. The summons shall be served upon the contestee in the same manner as other summonses are served out of the district court.

(2) The contestee, within ten days after the date of service of such summons, shall make and file an answer to the same with the clerk of the court in which the contestee shall either admit or specifically deny each allegation intended to be controverted by the contestee on the trial of such contest and shall set in that answer any counterstatement that he or she relies upon as entitling the contestee to the office to which he or she has been declared elected.

(3) If the reception of illegal votes or the rejection of legal votes is alleged as the cause of the contest, a list of the persons who so voted or offered to vote must be set forth in the statement of the contestor and must be likewise set forth in the answer of the contestee if any such cause is alleged in his or her answer by way of counterstatement.

(4) If the answer of the contestee contains new matter constituting a counterstatement, the contestor, within ten days after the filing of such answer, shall reply to the same, admitting or specifically denying, under oath, each allegation contained in such counterstatement intended by him or her to be controverted on the trial, and file the same in the office of the clerk of the district court.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 55, § 6, effective February 18. **L. 2016:** (3) amended, (HB 16-1442), ch. 313, p. 1270, § 17, effective August 10.

1-13.5-1405. Trial and appeals.

Immediately after the joining of issue, the district court shall fix a date for the trial to commence, which date shall not be more than twenty days nor less than ten days after the joining of issue. The trial takes precedence over all other business in the court. The testimony may be oral or by depositions taken before any officer authorized to take depositions. Any depositions taken to be used upon the trial of such contest may be taken upon four days' notice. The district judge shall cause the testimony to be taken in full and filed in the cause. The trial of such causes must be conducted according to the rules and practice of the district court. Such proceedings may be reviewed and finally adjudicated by the supreme court of this state, if application to that court is made by either party and if the supreme court is willing to assume jurisdiction of the case.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 55, § 6, effective February 18.

1-13.5-1406. Recount.

If, upon the trial of any contested election under this article, the statement or counterstatement sets forth an error in canvass sufficient to change the result, the trial judge has the power to conduct a recount of the ballots cast or the votes tabulated on the voting machines in the precinct where the alleged error was made. The court may also require the production of witnesses, documents, records, and other evidence as may have or may contain information regarding the legality of any vote cast or counted for either of the contesting candidates or the correct number of votes cast for either candidate and may correct the canvass in accordance with the evidence presented and its findings.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 56, § 6, effective February 18.

1-13.5-1407. Judgment.

The court shall pronounce judgment whether the contestee or any other person was duly elected. The person so declared elected is entitled to the office upon qualification. If the judgment is against the contestee and he or she has received his or her certificate, the judgment annuls it. If the court finds that no person was duly elected, the judgment will be that the election be set aside and that a vacancy exists.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 56, § 6, effective February 18.

1-13.5-1408. Ballot questions and ballot issues - how contested.

(1) The results of an election on any ballot question or ballot issue may be contested in the manner provided by this part 14. The grounds for such contest are those grounds set forth in section 1-13.5-1401 (1)(b), (1)(c), and (1)(d). The contestee is the appropriate election official. In addition to other matters required to be set forth by this part 14, the statement of intention to contest the election must set forth the question contested.

(2) Any contest arising out of a ballot issue or ballot question concerning the order on the ballot or concerning whether the form or content of any ballot title meets the requirements of section 20 of article X of the state constitution must be conducted as provided in section 1-11-203.5.

(3) The result of an election on any ballot issue approving the creation of any debt or other financial obligation may be contested in the manner provided by this part 14. The grounds for such contest are those grounds set forth in sections 1-11-201 (4) and 1-13.5-1401 (1)(b), (1)(c), and (1)(d). The contestee is the local government for which the ballot issue was decided.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 56, § 6, effective February 18.

PART 15

OTHER JUDICIAL PROCEEDINGS

1-13.5-1501. Controversies.

(1) When any controversy arises between any official charged with any duty or function under this article and any candidate or other person, the district court, upon the filing of a verified petition by any such official or person setting forth in concise form the nature of the controversy and the relief sought, shall issue an order commanding the respondent in the petition to appear before the court and answer under oath to the petition. It is the duty of the court to summarily hear and dispose of any such issues, with a view to obtaining a substantial compliance with this article by the parties to the controversy, and to make and enter orders and judgments and to follow the procedures of the court to enforce all such orders and judgments.

(2) The proceedings may be reviewed and finally adjudicated by the supreme court of this state, if application to that court is made within five days after the termination by the court in which the petition was filed and if the supreme court is willing to assume jurisdiction of the case.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 57, § 6, effective February 18.

PART 16

ELECTION OFFENSES

1-13.5-1601. Applicability of criminal penalties.

Notwithstanding any provision of law to the contrary, except for parts 2 and 3 of article 13 of this title, election offenses and penalties described under article 13 of this title apply to elections conducted under this article.

Source: L. 2014: Entire article added, (HB 14-1164), ch. 2, p. 57, § 6, effective February 18. **L. 2016:** Entire section amended, (SB 16-189), ch. 210, p. 754, § 6, effective June 6.

ARTICLE 14

Affiliation, Designation, Nomination of Candidates

1-14-101 to 1-14-301. (Repealed)

Source: L. 80: Entire article repealed, p. 418, § 38, effective January 1, 1981.

Editor's note: This article was numbered as articles 5, 6, and 7 of chapter 49, C.R.S. 1963. For amendments to this article prior to its repeal in 1980, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 15

Primary Elections

1-15-101 to 1-15-110. (Repealed)

Source: L. 80: Entire article repealed, p. 418, § 38, effective January 1, 1981.

Editor's note: This article was numbered as article 8 of chapter 49, C.R.S. 1963. For amendments to this article prior to its repeal in 1980, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 16

General Elections

1-16-101 to 1-16-108. (Repealed)

Source: L. 80: Entire article repealed, p. 418, § 38, effective January 1, 1981.

Editor's note: This article was numbered as article 2 of chapter 49, C.R.S. 1963. For amendments to this article prior to its repeal in 1980, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

ARTICLE 17

Presidential Electors

1-17-101 and 1-17-102. (Repealed)

Source: L. 80: Entire article repealed, p. 418, § 38, effective January 1, 1981.

Editor's note: This article was numbered as article 20 of chapter 49, C.R.S. 1963. For amendments to this article prior to its repeal in 1980, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

OTHER ELECTION OFFENSES

ARTICLE 30

Other Election Offenses

1-30-101 to 1-30-134. (Repealed)

Source: L. 80: Entire article repealed, p. 439, § 7, effective January 1, 1981.

Editor's note: This article was numbered as article 23 of chapter 49, C.R.S. 1963. For amendments to this article prior to its repeal in 1980, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

INITIATIVE AND REFERENDUM

ARTICLE 40

Initiative and Referendum

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1-40-120. Filing in federal court.

1-40-121. Designated representatives - expenditures related to petition circulation - report - penalty - definitions.

1-40-122. Certification of ballot titles.

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1-40-124. Publication.

1-40-124.5. Ballot information booklet.

1-40-125. Mailing to electors.

1-40-126. Explanation of effect of "yes/for" or "no/against" vote included in notices provided by mailing or publication.

1-40-126.5. Explanation of ballot titles and actual text of measures in notices provided by mailing or publication.

1-40-127. Ordinances - effective, when - referendum. (Repealed)

1-40-128. Ordinances, how proposed - conflicting measures. (Repealed)

1-40-129. Voting on ordinances. (Repealed)

1-40-130. Unlawful acts - penalty.

1-40-131. Tampering with initiative or referendum petition.

1-40-132. Enforcement.

1-40-133. Retention of petitions.

1-40-134. Withdrawal of initiative petition.

1-40-135. Petition entities - requirements - definition.

1-40-136. Bills enacted in the second regular session of the seventy-second general assembly that include an act subject to petition clause - legislative declaration. (Repealed)

1-40-101. Legislative declaration.

(1) The general assembly declares that it is not the intention of this article to limit or abridge in any manner the powers reserved to the people in the initiative and referendum, but rather to properly safeguard, protect, and preserve inviolate for them these modern instrumentalities of democratic government.

(2) (a) The general assembly finds, determines, and declares that:

(I) The initiative process relies upon the truthfulness of circulators who obtain the petition signatures to qualify a ballot issue for the statewide ballot and that during the 2008 general election, the honesty of many petition circulators was at issue because of practices that included: Using third parties to circulate petition sections, even though the third parties did not sign the circulator's affidavit, were not of legal age to act as circulators, and were paid in cash to conceal their identities; providing false names or residential addresses in the circulator's affidavits, a practice that permits circulators to evade detection by persons challenging the secretary of state's sufficiency determination; circulating petition sections without even a rudimentary understanding of the legal requirements relating to petition circulation; and obtaining the signatures of persons who purported to notarize circulator affidavits, even though such persons were not legally authorized to act as notaries or administer the required oath;

(II) The per signature compensation system used by many petition entities provides an incentive for circulators to collect as many signatures as possible, without regard for whether all petition signers are registered electors; and

(III) Many petition circulator affidavits are thus executed without regard for specific requirements of law that are designed to assist in the prevention of fraud, abuse, and mistake in the initiative process.

(b) The general assembly further finds, determines, and declares that:

(I) Because petition circulators who reside in other states typically leave Colorado immediately after petitions are submitted to the secretary of state for verification, a full and fair examination of fraud related to petition circulation is frustrated, and as a result, the secretary of state has been forced to give effect to certain circulator affidavits that were not properly verified and thus were not prima facie evidence of the validity of petition signatures on affected petition sections; and

(II) The courts have not had authority to exercise jurisdiction over fraudulent acts by circulators and notaries public in connection with petition signatures reviewed as part of the secretary of state's random sample.

(c) Therefore, the general assembly finds, determines, and declares that:

(I) As a result of the problems identified in paragraphs (a) and (b) of this subsection (2), one or more ballot measures appeared on the statewide ballot at the 2008 general election even though significant numbers of the underlying petition signatures were obtained in direct violation of Colorado law and the accuracy of the secretary of state's determination of sufficiency could not be fully evaluated by the district court; and

(II) For the initiative process to operate as an honest expression of the voters' reserved legislative power, it is essential that circulators truthfully verify all elements of their circulator affidavits and make themselves available to participate in challenges to the secretary of state's determination of petition sufficiency.

Source: L. 93: Entire article amended with relocations, p. 676, § 1, effective May 4. **L. 2009:** Entire section amended, (HB 09-1326), ch. 258, p. 1169, § 2, effective May 15.

Editor's note: This section is similar to former § 1-40-111 as it existed prior to 1993, and the former § 1-40-101 was relocated. For a detailed comparison, see the comparative tables located in the back of the index.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

This statute is constitutional. Zaner v. City of Brighton, 899 P.2d 263 (Colo. App. 1994).

The legislative intent of article 40 primarily is to make the initiative process fair and impartial. In re Ballot Title 1999-2000 Nos. 245(f) and 245(g), 1 P.3d 739 (Colo. 2000).

Legislation may not restrict right to vote. Legislative acts which prescribe the procedure to be used in voting on initiatives may not restrict the free exercise of the right to vote. City of Glendale v. Buchanan, 195 Colo. 267, 578 P.2d 221 (1978).

1-40-102. Definitions.

As used in this article 40, unless the context otherwise requires:

(1) "Ballot issue" means a nonrecall, citizen-initiated petition or legislatively-referred measure which is authorized by the state constitution, including a question as defined in sections 1-41-102 (3) and 1-41-103 (3), enacted in Senate Bill 93-98.

(2) "Ballot title" means the language which is printed on the ballot which is comprised of the submission clause and the title.

(3) (Deleted by amendment, L. 95, p. 430, § 2, effective May 8, 1995.)

(3.5) "Circulator" means a person who presents to other persons for possible signature a petition to place a measure on the ballot by initiative or referendum.

(3.7) "Designated representative of the proponents" or "designated representative" means a person designated pursuant to section 1-40-104 to represent the proponents in all matters affecting the petition.

(4) "Draft" means the typewritten proposed text of the initiative which, if passed, becomes the actual language of the constitution or statute, together with language concerning placement of the measure in the constitution or statutes.

(5) (Deleted by amendment, L. 95, p. 430, § 2, effective May 8, 1995.)

(6) "Section" means a bound compilation of initiative forms approved by the secretary of state, which shall include pages that contain the warning required by section 1-40-110 (1), the ballot title, the fiscal summary required by section 1-40-110 (3), and a copy of the proposed measure; succeeding pages that contain the warning, the ballot title, and ruled lines numbered consecutively for registered electors' signatures; and a final page that contains the affidavit required by section 1-40-111 (2). Each section shall be consecutively prenumbered by the petitioner prior to circulation.

(7) (Deleted by amendment, L. 95, p. 430, § 2, effective May 8, 1995.)

(8) "Submission clause" means the language which is attached to the title to form a question which can be answered by "yes" or "no".

(9) (Deleted by amendment, L. 2000, p. 1621, § 3, effective August 2, 2000.)

(10) "Title" means a brief statement that fairly and accurately represents the true intent and meaning of the proposed text of the initiative.

Source: L. 93: Entire article amended with relocations, p. 676, § 1, effective May 4; (1) amended, p. 1436, § 126, effective July 1. **L. 95:** (3) to (7) and (9) amended, p. 430, § 2, effective May 8. **L. 2000:** (6) and (9) amended, p. 1621, § 3, effective August 2. **L. 2009:** (3.5) added, (HB 09-1326), ch. 258, p. 1170, § 3, effective May 15. **L. 2011:** (3.7) added, (HB 11-1072), ch. 255, p. 1102, § 2, effective August 10. **L. 2015:** (6) amended, (HB 15-1057), ch. 198,

p. 674, § 1, effective March 26, 2016. **L. 2020:** IP and (6) amended, (HB 20-1416), ch. 232, p. 1122, § 1, effective November 1.

Editor's note: This section is similar to former § 1-40-100.3 as it existed prior to 1993, and the former § 1-40-102 (3)(b) was relocated to § 1-40-107 (5).

Cross references: For the legislative declaration in the 2011 act adding subsection (3.7), see section 1 of chapter 255, Session Laws of Colorado 2011.

ANNOTATION

Title was not a brief statement that fairly and accurately represented the true intent and meaning of the proposed initiative where the title and summary did not contain any indication that the geographic area affected would have been limited, and therefore there would be a significant risk that voters statewide would have misperceived the scope of the proposed initiative. Matter of Proposed Initiative 1996-17, 920 P.2d 798 (Colo. 1996).

The titles and summary were not misleading since they tracked the language of the initiative, and any problems in the interpretation of the measure or its constitutionality were beyond the functions assigned to the title board and outside the scope of the court's review of the title board's actions. Matter of Proposed Initiative 1997-98 No. 10, 943 P.2d 897 (Colo. 1997).

1-40-103. Applicability of article.

(1) This article shall apply to all state ballot issues that are authorized by the state constitution unless otherwise provided by statute, charter, or ordinance.

(2) The laws pertaining to municipal initiatives, referenda, and referred measures are governed by the provisions of article 11 of title 31, C.R.S.

(3) The laws pertaining to county petitions and referred measures are governed by the provisions of section 30-11-103.5, C.R.S.

(4) The laws pertaining to school district petitions and referred measures are governed by the provisions of section 22-30-104 (4), C.R.S.

Source: L. 93: Entire article amended with relocations, p. 677, § 1, effective May 4. **L. 95:** Entire section amended, p. 431, § 3, effective May 8. **L. 96:** (3) and (4) added, p. 1765, § 53, effective July 1.

Editor's note: Provisions of the former § 1-40-103 were relocated in 1993. For a detailed comparison, see the comparative tables located in the back of the index.

ANNOTATION

Petition was circulated within the period specified by law. See Baker v. Bosworth, 122 Colo. 356, 222 P.2d 416 (1950).

1-40-104. Designated representatives.

At the time of any filing of a draft as provided in this article, the proponents shall designate the names and mailing addresses of two persons who shall represent the proponents in all matters affecting the petition and to whom all notices or information concerning the petition shall be mailed.

Source: L. 93: Entire article amended with relocations, p. 677, § 1, effective May 4.

Editor's note: The former § 1-40-104 was relocated to § 1-40-108 (1) in 1993.

ANNOTATION

The designation requirement is a procedural one, so the proponents' failure to designate two persons to receive mail notices did not deprive the board of jurisdiction. Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994), overruled in Hayes v. Ottke, 2013 CO 1, 293 P.3d 551.

1-40-105. Filing procedure - review and comment meeting - amendments - filing with secretary of state - definition.

(1) The original typewritten draft of every initiative petition for a proposed law or amendment to the state constitution to be enacted by the people, before it is signed by any

elector, shall be submitted by the proponents of the petition to the directors of the legislative council and the office of legislative legal services for review and comment. Proponents are encouraged to write such drafts in plain, nontechnical language and in a clear and coherent manner using words with common and everyday meaning that are understandable to the average reader. Upon request, any agency in the executive department shall assist in reviewing and preparing comments on the petition. No later than two weeks after the date of submission of the original draft, unless it is withdrawn by the proponents, the directors of the legislative council and the office of legislative legal services, or their designees, shall render their comments to the proponents of the petition concerning the format or contents of the petition at a review and comment meeting that is open to the public. Where appropriate, such comments shall also contain suggested editorial changes to promote compliance with the plain language provisions of this section. Except with the permission of the proponents, the comments shall not be disclosed to any person other than the proponents prior to the review and comment meeting.

(1.5) Both designated representatives of the proponents must appear at all review and comment meetings. If either designated representative fails to attend a meeting, the measure is considered withdrawn by the proponents. If one of the two designated representatives fails to attend the review and comment meeting, the petition is deemed to be automatically resubmitted to the directors of the legislative council and the office of legislative legal services for review and comment, unless the designated representative present objects to the automatic resubmission. No later than five business days after the resubmission, the directors shall conduct a review and comment meeting in accordance with the requirements of this section. If both designated representatives fail to attend the review and comment meeting or if the designated representative present objects to the automatic resubmission, the proponents may thereafter resubmit the initiative petition in accordance with subsection (1) of this section.

(2) After the review and comment meeting but before submission to the secretary of state for title setting, the proponents may amend the petition in response to some or all of the comments of the directors of the legislative council and the office of legislative legal services, or their designees. If any substantial amendment is made to the petition, other than an amendment in direct response to the comments of the directors of the legislative council and the office of legislative legal services, the amended petition must be resubmitted to the directors for comment in accordance with subsection (1) of this section prior to submittal to the secretary of state as provided in subsection (4) of this section. If the directors have no additional comments concerning the amended petition, they may so notify the proponents in writing, and, in such case, a review and comment meeting on the amended petition pursuant to subsection (1) of this section is not required.

(3) To the extent possible, drafts shall be worded with simplicity and clarity and so that the effect of the measure will not be misleading or likely to cause confusion among voters. The draft shall not present the issue to be decided in such manner that a vote for the measure would be a vote against the proposition or viewpoint that the voter believes that he or she is casting a vote

for or, conversely, that a vote against the measure would be a vote for a proposition or viewpoint that the voter is against.

(4) (a) (I) After the review and comment meeting provided in subsections (1) and (2) of this section, if the proponents choose to submit the initiative petition draft to the secretary of state for title setting, the proponents must submit to the secretary of state:

(A) A copy of the original typewritten draft submitted to the directors of the legislative council and the office of legislative legal services;

(B) A copy of the amended draft with changes highlighted or otherwise indicated, if any amendments were made following the last review and comment meeting conducted pursuant to subsections (1) and (2) of this section; and

(C) An original final draft that gives the final language for printing.

(II) The proponents shall not submit to the secretary of state any title, submission clause, or ballot title providing the designation by which the voters are to express their choice for or against the proposed law or constitutional amendment.

(b) (I) In addition to the requirements set forth in subsection (4)(a) of this section, if, within the same initiative cycle, the proponents submit to the secretary of state five or more drafts concerning the same subject matter and with one designated representative who is the same for all drafts, the proponents must also submit, at the same time the proponents submit the materials required by subsection (4)(a) of this section, a chart that describes or otherwise visually demonstrates the differences between each of the drafts.

(II) As used in this subsection (4)(b), "initiative cycle" means the period beginning with the date that is the twelfth day before the first Wednesday in December following a general election and ending with the date that is the third Wednesday in April in the year in which the measure is to be voted on.

Source: L. 93: Entire article amended with relocations, p. 677, § 1, effective May 4; (1) amended, p. 994, § 1, effective June 2. **L. 2000:** (4) amended, p. 1622, § 4, effective August 2. **L. 2015:** (1), (2), and (4) amended and (1.5) added, (HB 15-1057), ch. 198, p. 674, § 2, effective March 26, 2016. **L. 2025:** (4) amended, (HB 25-1327), ch. 446, p. 2562, § 1, effective June 4.

Editor's note: This section is similar to former § 1-40-101 as it existed prior to 1993, and the former § 1-40-105 was relocated to § 1-40-109.

Cross references: For the general assembly, powers, and initiative and referendum reserved to the people, see also § 1 of art. V, Colo. Const.; for recall from office, see art. XXI, Colo. Const.

ANNOTATION

I. General Consideration.

II. People's Right to Enact Own Legislation.

III. Review and Comment by Legislative Agencies.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Popular Law-Making in Colorado", see 26 Rocky Mt. L. Rev. 439 (1954).

Annotator's note. (1) The following annotations include cases decided under former provisions similar to this section.

(2) For additional cases concerning the initiative and referendum power, see the annotations under § 1 of article V of the state constitution.

The purpose of the initiative and referendum embodied in the constitution was to expeditiously permit the free exercise of legislative powers by the people, and the procedural statutes enacted in connection therewith were adopted to facilitate the execution of the law. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938); Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

Provisions relating to the initiative should be liberally construed to permit, if possible, the exercise by the electors of this most important privilege. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938); Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

Citizen held not to have an "interest in the matter in litigation" in mandamus proceedings. Where on protest the secretary of state refused to file or refile a tendered petition to initiate a measure under the initiative and referendum act, and mandamus is brought to compel him to file, a citizen who feels he will be injured by the measure has not such an "interest in the matter in litigation" or "in the success of either of the parties to the action", as gives him the right to intervene in the mandamus proceeding. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

II. PEOPLE'S RIGHT TO ENACT OWN LEGISLATION.

People have reserved to themselves right of initiative in § 1 of art. V, Colo. Const. In re Second Initiated Constitutional Amendment, 200 Colo. 141, 613 P.2d 867 (1980).

No discretion rests with administrative officials to pass upon the validity of an act proposed by the people. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

The people then undertake to legislate for themselves. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

And the initiative and referendum laws, where invoked by the people, supplant the city council or representative body. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

And in the exercise of their right to vote upon such proposal, wisely adopt or reject it. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

And the town or city clerk is required to perform certain statutory duties in connection therewith, for failure of which he is subject to penalties. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

Because it is not within the discretion of the clerk and city council to question the acts of their principal, the people. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

The people express their sanction and approval of the ordinance by their vote, and its enforcement is attempted by one whose rights are affected, then the courts are open to pass upon the question of its validity. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

But a proposed ordinance is clothed with the presumption of validity and its constitutionality will not be considered by the courts by means of a hypothetical question, but only after enactment. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

And neither the supreme court nor any other court may be called upon to construe or pass upon a legislative act until it has been adopted. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

The only exception to this rule is the constitutional provision authorizing the general assembly to propound interrogatories to the supreme court upon important questions upon solemn occasions (§ 3 of art. VI, Colo. Const.). City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

Therefore, it is clear from the provisions of the initiative and referendum act and the penalties provided thereby that the legislature has been careful and diligent to safeguard the primary right of the people to propose and enact their own legislation. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

III. REVIEW AND COMMENT BY LEGISLATIVE AGENCIES.

Any proposed initiative must be submitted to the legislative research office and the legislative drafting office before it is submitted to the initiative title-setting board regardless of whether it is substantially similar to a previously proposed initiative. Without such submittal, the board lacks jurisdiction to set a title. In re Title Pertaining to "Tax Reform", 797 P.2d 1283 (Colo. 1990); In re Amendment Concerning Limited Gaming in the Town of Idaho Springs, 830 P.2d 963 (Colo. 1992).

But where legislative service agencies indicate that they have no additional comments beyond those made on first version of essentially the same proposal, it is not necessary to convene a second review and comment hearing. In re Second

Proposed Initiative Concerning Uninterrupted Serv. by Pers. Employees, 613 P.2d 867 (Colo. 1980).

And where one feature of a proposal is not specifically pointed out by legislative service agencies, but is included in titles and summary, the measure needs not be remanded. Matter of Proposed Initiative for an Amendment Entitled "W.A.T.E.R.", 875 P.2d 861 (Colo. 1994).

No resubmission of the amended proposed initiative was required by subsection (2) since the amendments made by the proponents to the original proposed initiative were made in response to the comments of the directors of the legislative council and the office of legislative legal services. Matter of Proposed Initiative 1997-98 No. 10, 943 P.2d 897 (Colo. 1997).

Where changes in final version of initiative submitted to secretary of state were in direct response to substantive questions and comments raised by directors of the legislative council and the office of legislative legal services, the proponents of the initiative were not required to resubmit the initiative to the directors. In re Ballot Title 1999-2000 No. 256, 12 P.3d 246 (Colo. 2000).

While particular change was not made in direct response to the directors' questions, court concludes that, in the context of the amendment as a whole, it was a clarification and not a substantive change. Accordingly, change did not require resubmission to the directors. In re Ballot Title 1999-2000 No. 256, 12 P.3d 246 (Colo. 2000).

Change made in response to director's comment about a suggested grammatical change and comment regarding the overlap of terms used in the proposed initiative did not require proponents to resubmit initiative. In re Ballot Title 2007-2008 No. 57, 185 P.3d 142 (Colo. 2008).

Proponents' failure to indicate changes as specified in subsection (4) justified board's refusal to set a title. Matter of Proposed Initiative 1997-98 No. 109, 962 P.2d 252 (Colo. 1998).

1-40-105.5. Initial fiscal impact statement - fiscal summary - definition.

(1) As used in this section, unless the context otherwise requires, "director" means the director of research of the legislative council of the general assembly.

(1.5) (a) For every initiated measure properly submitted to the title board, the director shall prepare a fiscal summary that consists of the following information:

(I) (A) A description of the measure's fiscal impact, including a preliminary estimate of any change in state and local government revenues, expenditures, taxes, or fiscal liabilities if implemented; and

(B) For a measure that proposes a tax increase, the director shall include in the description of the measure's fiscal impact a preliminary estimate of the maximum dollar amount of the change

in state and local government revenue and fiscal year spending, as defined in section 20 (2)(e) of article X of the state constitution, for the first and, if phased in, final full fiscal year of the proposed tax increase;

(II) A qualitative description of the economic impacts of the measure if implemented;

(III) Any information from the initiated measure or a description of state and local government implementation in order to provide the information required in subsection (1.5)(a)(I) or (1.5)(a)(II) of this section;

(IV) The following statement: "This fiscal summary, prepared by the nonpartisan Director of Research of the Legislative Council, contains a preliminary assessment of the measure's fiscal impact. A full fiscal impact statement for this initiative is or will be available at www.ColoradoBlueBook.com.".

(V) If the measure would either increase or decrease the individual income tax rate, a table that shows the estimated effect of the change on the tax owed by individuals in different income categories. The table prepared by the director must have one column titled "income categories" that shows income categories, one column titled "current average income tax owed" that shows the average income tax owed by filers within each income category, one column titled "proposed average income tax owed" that shows the average income tax owed by filers within each income category if the initiated measure were to pass, and one column titled "proposed change in average income tax owed" that identifies the difference between the average income tax owed by filers within each income category if the initiated measure were to pass and if the initiated measure were not to pass. If the difference in the amount of tax owed shown in the table is an increase, the change must be expressed as a dollar amount preceded by a plus sign. If the change in the amount of tax owed shown in the table is a decrease, the change must be expressed as a dollar amount preceded by a negative sign. The director shall use the following income categories in creating the table:

(A) Federal adjusted gross income of twenty-five thousand dollars or less;

(B) Federal adjusted gross income greater than twenty-five thousand dollars and no more than fifty thousand dollars;

(C) Federal adjusted gross income greater than fifty thousand dollars and no more than one hundred thousand dollars;

(D) Federal adjusted gross income greater than one hundred thousand dollars and no more than two hundred thousand dollars;

(E) Federal adjusted gross income greater than two hundred thousand dollars and no more than five hundred thousand dollars;

(F) Federal adjusted gross income greater than five hundred thousand dollars and no more than one million dollars;

(G) Federal adjusted gross income greater than one million dollars and no more than two million dollars; and

(H) Federal adjusted gross income greater than two million dollars and no more than five million dollars.

(b) If an initiated measure has no fiscal impact as specified in subsection (1.5)(a)(I) or (1.5)(a)(II), then the director may include a statement that there is no fiscal impact under that provision.

(c) The director shall notify the secretary of state if the website for fiscal summaries changes, and in such case, the statement required in subsection (1.5)(a)(IV) must include the new website.

(d) The director shall provide the designated representatives of the proponents and the secretary of state with the fiscal summary no later than the time of the title board meeting at which the proposed initiated measure is to be considered. The title board shall not conduct a hearing on the fiscal summary at this title board meeting, and the director's fiscal summary is final, unless modified in accordance with section 1-40-107.

(2) (a) For every initiated measure for which the secretary of state has approved a petition section in accordance with section 1-40-113 (1)(a), the director shall prepare an initial fiscal impact statement, taking into consideration any fiscal impact estimate submitted by the designated representatives of the proponents or other interested person that is submitted in accordance with subsection (2)(b) of this section, the office of state planning and budgeting, and the department of local affairs. The director shall provide the designated representatives of the proponents and the secretary of state with a copy of the fiscal impact statement no later than fourteen days after the petition section was approved. The director shall also post the fiscal impact statement on the legislative council staff website on the same day that it is provided to the designated representatives of the proponents. The fiscal impact statement is not subject to review by the title board or the Colorado supreme court under this article 40.

(b) The designated representatives of the proponents or any other interested person may submit a fiscal impact estimate that includes an estimate of the effect the measure will have on state and local government revenues, expenditures, taxes, and fiscal liabilities if it is enacted, or a draft fiscal summary with the information specified in subsection (1.5) of this section. The director shall consider these estimates and the bases thereon when preparing the initial fiscal impact statement and shall consider the draft fiscal summary when preparing the fiscal summary.

(c) The initial fiscal impact statement must:

(I) Be substantially similar in form and content to the fiscal notes provided by the legislative council of the general assembly for legislative measures pursuant to section 2-2-322, C.R.S.;

(II) Indicate whether there is a fiscal impact for the initiated measure.

(III) (Deleted by amendment, L. 2020.)

(3) Repealed.

(4) The fiscal summary for a measure, as amended in accordance with section 1-40-107, must be included in a petition section as provided in section 1-40-110 (3).

(5) Neither the legislative council of the general assembly nor its executive committee may modify the initial fiscal impact statement prepared by the director. This restriction does not apply to the final fiscal impact statement prepared in accordance with section 1-40-124.5.

(6) At the same time the director posts the initial fiscal impact statement on the legislative council website, he or she shall also post on the website all fiscal impact estimates received in accordance with paragraph (b) of subsection (2) of this section.

Source: L. 2015: Entire section added, (HB 15-1057), ch. 198, p. 676, § 3, effective March 26, 2016. **L. 2020:** (1.5) added, (2)(a), (2)(b), (2)(c)(II), (2)(c)(III), and (4) amended, and (3) repealed, (HB 20-1416), ch. 232, p. 1122, § 2, effective November 1. **Referred 2022:** (1.5)(a)(III) amended and (1.5)(a)(V) added, Proposition GG, (SB 22-222), ch. 508, p. 4275, § 2, effective upon proclamation of the Governor, December 27, 2022. See L. 2023, p. 3636. **L. 2025:** (1.5)(a)(I) amended, (HB 25-1327), ch. 446, p. 2563, § 2, effective June 4.

Editor's note: This section was amended by SB 22-222. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of Colorado on November 8, 2022. The amended version of this section took effect upon the proclamation of the Governor, December 27, 2022. The vote count for the measure was as follows:

YES: 1,704,757

NO: 665,476

ANNOTATION

Title board action regarding a fiscal impact statement abstract is subject to judicial review. When undertaking such review, the court will apply the same standard of review as it applies when reviewing the title board's single-subject and clear-title findings by: (1) giving great deference to the title board; (2) drawing all legitimate presumptions in favor of the title board's decision; and (3) only overturning the board's decision in a clear case. In the Matter of the Title, Ballot Title & Sub.

Clause for 2017-2018 No. 4, 2017 CO 57, 395 P.3d 318.

Abstract need not contain hard numbers or other quantitative data regarding a proposed measure's expected economic impact when precise estimates of fiscal or other impacts cannot be determined. In the Matter of the Title, Ballot Title, & Sub. Clause for 2017-18 No. 4, 2017 CO 57, 395 P.3d 318; In re Proposed Ballot Initiative 2019-2020 No. 3 "State Fiscal Policy", 2019 CO 107, 454 P.3d 1056.

1-40-106. Title board - meetings - ballot title - initiative and referendum - definitions - rules.

(1) For ballot issues, beginning with the first submission of a draft after an election, the secretary of state shall convene a title board consisting of the secretary of state, the attorney general, and the director of the office of legislative legal services or their designees. The title board, by majority vote, shall proceed to designate and fix a proper fair title for each proposed law or constitutional amendment, together with a submission clause, at public meetings to be held at the hour determined by the title board on the first and third Wednesdays of each month in which a draft or a motion for reconsideration has been submitted to the secretary of state. To be considered at such meeting, the proponents must submit the draft to the secretary of state no later than 3 p.m. on the twelfth day before the meeting at which the title board will consider the draft, and the designated representatives of the proponents must comply with the requirements of subsection (4) of this section. The title board must hold its first meeting no sooner than the first Wednesday in December after an election, and the title board must hold its last meeting no later than the third Wednesday in April in the year in which the measure is to be voted on.

(2) (Deleted by amendment, L. 95, p. 431, § 4, effective May 8, 1995.)

(3) (a) (Deleted by amendment, L. 2000, p. 1620, § 1, effective August 2, 2000.)

(b) (I) In setting a title, the title board shall consider the public confusion that might be caused by misleading titles and shall, whenever practicable, avoid titles for which the general understanding of the effect of a "yes/for" or "no/against" vote will be unclear. The title for the proposed law or constitutional amendment, which must correctly and fairly express the true intent and meaning thereof, together with the ballot title and submission clause, must be completed, except as otherwise required by section 1-40-107, within two weeks after the first meeting of the title board. Immediately upon completion, the secretary of state shall deliver the same with the original to the designated representatives of the proponents, keeping the copy with a record of the action taken thereon.

(II) The title board shall set ballot titles that:

(A) Are brief;

(B) Are written using accessible language, which is plain language that is understood by the widest possible audience;

(C) Do not conflict with ballot titles selected for any petition previously filed for the same election; and

(D) Are in the form of a question that may be answered "yes/for" (to vote in favor of the proposed law or constitutional amendment) or "no/against" (to vote against the proposed law or constitutional amendment) and that unambiguously states the principle of the provision sought to be added, amended, or repealed.

(c) (I) In order to avoid confusion between a proposition and an amendment, as such terms are used in section 1-5-407 (5)(b), the title board shall describe a proposition in a ballot title as a "change to the Colorado Revised Statutes" and an amendment as an "amendment to the Colorado constitution".

(II) The title board shall indicate in the ballot title whether the change to the Colorado Revised Statutes or amendment to the Colorado constitution modifies, extends, or repeals existing law or creates new law.

(d) A ballot title for a statewide referred measure must be in the same form as a ballot title for an initiative as required by paragraph (c) of this subsection (3).

(e) For measures that reduce state tax revenue through a tax change, the ballot title must include language substantially similar to the following language, which may appear anywhere in the ballot title: "Shall there be a reduction to the (description of tax) by (the percentage by which the tax is reduced in the first full fiscal year that the measure reduces revenue) thereby reducing state revenue, which will likely reduce funding for state expenditures that include but are not limited to (the three largest areas of program expenditure) by an estimated (projected dollar figure of revenue reduction to the state in the first full fiscal year that the measure reduces revenue) in tax revenue...?". If the ballot measure specifies the public services or programs that are to be reduced by the tax change, those public services or programs must be stated in the ballot title. If the public services or programs identified in the measure are insufficient to account for the full dollar value of the tax change in the first full fiscal year that the measure reduces revenue, then the three largest areas of program expenditure must be stated in the bill title along with the public services or programs identified in the measure. The estimates reflected in the ballot title shall not be interpreted as restrictions of the state's budgeting process.

(f) For measures that reduce local district property tax revenue through a tax change, the ballot title must include language substantially similar to the following language, which may appear anywhere in the ballot title: "Shall funding available for counties, school districts, water districts, fire districts, and other districts funded, at least in part, by property taxes be impacted by a reduction of (projected dollar figure of property tax revenue reduction to all districts in the first full fiscal year that the measure reduces revenue) in property tax revenue...?". The title

board shall exclude any districts whose property tax revenue would not be reduced by the measure from the measure's ballot title. The estimates reflected in the ballot title shall not be interpreted as restrictions of a local district's budgeting process.

(g) (I) For measures that increase tax revenue for any district through a tax change and specify the public services to be funded by the increased revenue, the ballot title must include language substantially similar to the following language, which may appear anywhere after the language required by section 20 (3)(c) of article X of the state constitution: "in order to increase or improve levels of public services, including (the public service specified in the measure)...". For measures that increase tax revenue for any district through a tax change and do not specify the public services to be funded by the increased revenue, the ballot title must include language similar to the following language, which may appear anywhere after the language required by section 20 (3)(c) of article X of the state constitution: "in order to increase or improve levels of public services...".

(II) For measures that propose a tax increase, for purposes of complying with section 20 (3)(c) of article X of the state constitution, the title board shall rely on the preliminary estimate of the maximum dollar amount of the change in state and local government revenue for the first or, if phased in, final full fiscal year of the proposed tax increase determined pursuant to section 1-40-105.5 (1.5)(a)(I)(B).

(III) The estimates reflected in the ballot title shall not be interpreted as restrictions of a district's budgeting process.

(h) In determining whether a ballot title qualifies as brief for purposes of section 1-40-102 (10) and subsection (3)(b)(II)(A) of this section and whether a ballot title uses accessible language for purposes of subsection (3)(b)(II)(B) of this section, the language required by subsection (3)(e), (3)(f), (3)(g), or (3)(j) of this section may not be considered.

(h.5) In determining whether a ballot title is written using accessible language for purposes of subsection (3)(b)(II)(B) of this section, the title board may consider whether the title:

(I) Avoids using legal, technical, or specialized terminology when possible;

(II) Clearly identifies the principal change in law or policy proposed by the proposed law or constitutional amendment;

(III) Avoids unnecessary qualifiers, double negatives, and overly complex phrasing;

(IV) Organizes clauses so that the effect of a "yes/for" or "no/against" vote is readily understood; and

(V) Presents necessary information within the ballot title in a logical and readable order.

(i) As used in this subsection (3), unless the context otherwise requires:

(I) "Areas of program expenditure" means categories of spending by issue area. For state expenditures, "the three largest areas of program expenditure" refers to the three program types listed as receiving the largest general fund operating appropriations in the joint budget committee's annual appropriations report for the most recent fiscal year.

(II) "Tax change" means any initiated ballot issue or initiated ballot question that has a primary purpose of lowering or increasing tax revenues collected by a district, including a reduction or increase of tax rates, mill levies, assessment ratios, or other measures, including matters pertaining to tax classification, definitions, credits, exemptions, monetary thresholds, qualifications for taxation, or any combination thereof, that reduce or increase a district's tax collections. "Tax change" does not mean an initiated ballot issue or initiated ballot question that results in a decrease or increase in revenue to a district in which such decrease or increase is incidental to the primary purpose of the initiated ballot issue or initiated ballot question.

(j) A ballot title for a measure that either increases or decreases the individual income tax rate must, if applicable, include the table created for the fiscal summary pursuant to section 1-40-105.5 (1.5)(a)(V).

(3.5) For every proposed constitutional amendment, the title board shall determine whether the proposed constitutional amendment only repeals in whole or in part a provision of the state constitution for purposes of section 1 (4)(b) of article V of the state constitution. The secretary of state shall keep a record of the determination made by the title board.

(4) (a) Each designated representative of the proponents shall appear at any title board meeting at which the designated representative's ballot issue is considered.

(b) Each designated representative of the proponents shall certify by a notarized affidavit that the designated representative is familiar with the provisions of this article, including but not limited to the prohibition on circulators' use of false addresses in completing circulator affidavits and the summary prepared by the secretary of state pursuant to paragraph (c) of this subsection (4). The affidavit shall include a physical address at which process may be served on the designated representative. The designated representative shall sign and file the affidavit with the secretary of state at the first title board meeting at which the designated representative's ballot issue is considered.

(c) The secretary of state shall prepare a summary of the designated representatives of the proponents' responsibilities that are set forth in this article.

(d) The title board shall not set a title for a ballot issue if either designated representative of the proponents fails to appear at a title board meeting or file the affidavit as required by paragraphs (a) and (b) of this subsection (4). The title board may consider the ballot issue at its next meeting, but the requirements of this subsection (4) shall continue to apply.

(e) The secretary of state shall provide a notary public for the designated representatives at the title board meeting.

Source: L. 93: Entire article amended with relocations, p. 679, § 1, effective May 4. **L. 95:** (1), (2), and (3)(a) amended, p. 431, § 4, effective May 8. **L. 2000:** (3) amended, p. 1620, § 1, effective August 2. **L. 2004:** (1) amended, p. 756, § 1, effective May 12. **L. 2009:** (1) amended, (HB 09-1326), ch. 258, p. 1170, § 4, effective July 1. **L. 2011:** (1) and (3)(b) amended and (4) added, (HB 11-1072), ch. 255, p. 1102, § 3, effective August 10. **L. 2012:** (1) and (3)(b) amended, (HB 12-1313), ch. 141, p. 510, § 1, effective April 26; (3)(c) and (3)(d) added, (HB 12-1089), ch. 70, p. 241, § 2, effective May 1; (3)(b) amended, (HB 12-1089), ch. 70, p. 241, § 2, effective January 1, 2013. **L. 2017:** (3.5) added, (SB 17-152), ch. 169, p. 616, § 1, effective August 9. **L. 2021:** (3)(e), (3)(f), (3)(g), (3)(h), and (3)(i) added, (HB 21-1321), ch. 474, p. 3395, § 3, effective July 7. **Referred 2022:** (3)(h) amended and (3)(j) added, Proposition GG, (SB 22-222), ch. 508, p. 4276, § 3, effective upon proclamation of the Governor, December 27, 2022. See L. 2023, p. 3636. **L. 2025:** (1), (3)(c), and (3)(g) amended, (HB 25-1327), ch. 446, p. 2563, § 3, effective June 4. **L. 2026:** (3)(e) amended, (HB 26-1084), ch. 349, p. 2114, § 1, effective June 3; (3)(b), (3)(e), (3)(f), (3)(g)(I), and (3)(h) amended and (3)(h.5) added, (HB 26-1320), ch. 235, p. 1356, § 2, effective August 12.

Editor's note: (1) This section is similar to former § 1-40-101 as it existed prior to 1993, and the former § 1-40-106 was relocated. For a detailed comparison, see the comparative tables located in the back of the index.

(2) Amendments to subsection (3)(b) by House Bill 12-1089 and House Bill 12-1313 were harmonized.

(3) This section was amended by SB 22-222. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of Colorado on November 8, 2022. The amended version of this section took effect upon the proclamation of the Governor, December 27, 2022. The vote count for the measure was as follows:

YES: 1,704,757

NO: 665,476

(4) Section 3(1) of chapter 235 (HB 26-1320), Session Laws of Colorado 2026, provides that the act changing this section takes effect only if HB 26-1084 becomes law, in which case section 2 of HB 26-1320 takes effect either on the effective date of HB 26-1320 or HB 26-1084, whichever is later. HB 26-1084 became law and took effect June 3, 2026, and HB 26-1320 became law and took effect August 12, 2026.

(5) Section 3(2) of chapter 235 (HB 26-1320), Session Laws of Colorado 2026, provides that the act changing this section applies to initiative petition drafts submitted to the secretary of state for title setting on or after August 12.

Cross references: (1) For the general assembly, powers, and initiative and referendum reserved to the people, see also § 1 of art. V, Colo. Const.; for recall from office, see art. XXI, Colo. Const.

(2) For the legislative declaration in the 2011 act amending subsections (1) and (3)(b) and adding subsection (4), see section 1 of chapter 255, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (3)(b) and adding subsections (3)(c) and (3)(d), see section 1 of chapter 70, Session Laws of Colorado 2012.

(3) For the short title ("Ballot Measure Fiscal Transparency Act of 2021") in HB 21-1321, see section 1 of chapter 474, Session Laws of Colorado 2021.

ANNOTATION

I. General Consideration.

II. Filing.

III. Statutory Board.

V. Summary and Fiscal Impact Statement.

I. GENERAL CONSIDERATION.

Law reviews. For article, "Popular Law-Making in Colorado", see 26 Rocky Mt. L. Rev. 439 (1954).

Annotator's note. (1) The following annotations include cases decided under former provisions similar to this section.

(2) For cases concerning the people's right to enact their own legislation, see the annotations under § 1-40-105.

(3) For additional cases concerning the initiative and referendum power, see the annotations under §1 of article V of the state constitution.

Flexible level of scrutiny applies to challenge of § 1 (5.5) of article V of the state constitution and the statutory title-setting procedures implementing it. Under this standard, courts must weigh the "character and magnitude of the asserted injury to the rights protected by the first and fourteenth amendments that the plaintiff seeks to vindicate" against the "precise interests put forward by the State as justifications for the burden imposed by its rule", taking into consideration "the extent to which those interests make it necessary to burden the plaintiff's rights". Anderson v. Celebrezze, 460 U.S. 780 (1983); Campbell v. Buckley, 11 F. Supp. 2d 1260 (D. Colo. 1998).

Single-subject requirement in § 1 (5.5) of article V of the constitution and the statutory title-setting procedures implementing it do not violate initiative

proponents' free speech or associational rights under the first amendment nor do they discriminate against proponents in violation of the fourteenth amendment's equal protection clause. Campbell v. Buckley, 11 F. Supp. 2d 1260 (D. Colo. 1998), aff'd, 203 F.3d 738 (10th Cir. 2000).

The summary, single subject, and title requirements serve to prevent voter confusion and promote informed decisions by narrowing the initiative to a single matter and providing information on that single subject. Campbell v. Buckley, 203 F.3d 738 (10th Cir. 2000).

The requirements of subsections (3)(e) and (3)(f) as enacted by HB 21-1321 do not result in improperly compelled speech under the first amendment of the United States Constitution. The long history of the title board's practices reflects the substantial control the government asserts over initiative titles and its legitimate interest in providing a standardized process for presenting measures to voters. Titling is statutorily separated and preserved as an express function of the government under state law. Despite the catalytic role played by citizens in the initiative process, ballot titles are fully and exclusively crafted by the government through the secretary of state's office. In addition, the disclaimer statement immediately above the ballot title on signature petitions indicating the language is "designated and fixed" by the title board plainly communicates to voters that the title is drafted by the government and does not represent the proponents' expression. Advance Colo. v. Griswold, 99 F.4th 1234 (10th Cir. 2024).

The requirements serve to prevent a provision that would not otherwise pass from becoming law by "piggybacking" it on a more popular proposal or concealing it in a long and complex initiative. Campbell v. Buckley, 203 F.3d 738 (10th Cir. 2000).

The 12-day notice requirement in subsection (1) only governs the time requirement for submitting a draft of the text of the initiative. Subsection (1) does not require that any proposed amendments or modifications to the title or submission clause be submitted to the board at least twelve days prior to the hearing. Proposed additions or deletions from the title and submission clause may be offered by any registered elector during the public hearing or rehearing before the board. In re Proposed Initiated Constitutional Amendment, 877 P.2d 329 (Colo. 1994).

"Substantial compliance" is the standard by which to judge compliance with the fiscal impact information filing requirements of subsection (3)(a). Invalidation of the board's actions when the fiscal impact information was filed five minutes late, then refiled three hours later to correct a calculation error, would impermissibly infringe on the fundamental right of initiative. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000) (decided under law in effect prior to 2000 amendment).

The purpose of the title setting process is to ensure that person reviewing the initiative petition and voters are fairly advised of the import of the proposed amendment. In re Title, Ballot Title & Sub. Clause, 910 P.2d 21 (Colo. 1996).

Applied in Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

II. FILING.

The filing of a petition to initiate a measure under the initiative and referendum statute is a ministerial act, and the secretary of state has discretion in the first instance to determine its sufficiency to entitle it to be filed. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938) (decided under former law).

III. STATUTORY BOARD.

It is the duty of those to whom the duty is assigned to prepare a title to an initiated measure to use such language as shall correctly and fairly express the true intent and meaning of the proposal to be submitted to the voters. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

But the action of the statutory board empowered to fix a ballot title and submission clause is presumptively valid. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958); In re Proposed Initiative "Automobile Insurance Coverage," 877 P.2d 853 (Colo. 1994); In re Proposed Initiative 1997-1998 No. 75, 960 P.2d 672 (Colo. 1998); Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998); Matter of Title, Ballot Title & Sub. Clause, & Summary for 1999-2000 No. 104, 987 P.2d 249 (Colo. 1999).

And the supreme court employs all legitimate presumptions in favor of the title board's actions, gives great deference to the title board in the exercise of its drafting authority, and will reverse its decision only if a title is insufficient, unfair, or misleading. In re Title, Ballot Title, Sub. Cl. for 2009-2010 No. 45; In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63, 2016 CO 34, 370 P.3d 628; In re Ballot Title 2019-2020 No. 3, 2019 CO 57, 442 P.3d 867.

And those who contend to the contrary must show wherein the assigned title does not meet the statutory requirement. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

The reason being that, under our system of government, the resolution of these questions, when the formalities for submission have been met, rests with the electorate. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

Title board had discretion to set the titles and summary of proposed initiative despite proponents' failure to indicate all of the differences between the original and final versions of the measure submitted to the secretary of state. Matter of Prop. Init. Const. Amend. 1996-3, 917 P.2d 1274 (Colo. 1996).

Title board lacks jurisdiction to set a title if any designated representative of the proponents of a proposed initiative fails to appear at a title board meeting at which the proposed initiative is considered. Subsection (4) reflects the general assembly's clear and unambiguous intent to require both designated representatives to appear at any title board hearing, including a rehearing, at which the proposed initiative is being considered. Hayes v. Ottke, 2013 CO 1, 293 P.3d 551.

Substitution of a third party for one of the designated representatives divests the title board of jurisdiction to act in any meeting at which either of the original designated representatives is not present. In re Ballot Title 2013-2014 No. 103, 2014 CO 61, 328 P.3d 127.

Requirements of this section concerning designated representatives are no longer merely procedural requirements promoting efficient notification, but are instead substantive requirements designed to promote the purpose of the title setting process by ensuring that the title board has access to the information that it needs to resolve the substantive issues raised at any meeting concerning a proposed initiative. Hayes v. Ottke, 2013 CO 1, 293 P.3d 551 (overruling Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994)).

Board was created by statute to assist the people in the implementation of their right to initiate laws. In re Proposed Initiative Concerning Drinking Age, 691 P.2d 1127 (Colo. 1984).

Deputy attorney general. Because the title board is created by statute, the attorney general may designate, pursuant to § 24-31-103, a deputy to serve in her place. Amendment to Const. Section 2 to Art. VII, 900 P.2d 104 (Colo. 1995).

Delegation. Because the title board is created by statute, the attorney general, pursuant to § 24-31-103, and the secretary of state, pursuant to § 24-21-105, may designate deputies to serve in their place. Matter of Title, Ballot Title & Sub. Cl., 900 P.2d 121 (Colo. 1995).

The provisions of this statute, rather than those of the State Administrative Procedure Act, govern the Board's action in designating and fixing the title, ballot title and submission clause, and summary of a proposed initiative measure. In re Proposed Initiative Entitled W.A.T.E.R., 831 P.2d 1301 (Colo. 1992).

Plaintiff has a liberty right to challenge the decision of the title board. This section and § 1-40-101 insufficiently provide for the notice required by the United States Constitution to protect this liberty interest, thereby depriving plaintiff of her constitutional rights. Montero v. Meyer, 790 F. Supp. 1531 (D. Colo. 1992).

As to all initiatives and referenda hearings governed by this section occurring after April 27, 1992, defendants are ordered to publish pre-hearing and post-hearing notices to electors at least sufficient to meet the fair notice requirements of due process of law under the fourteenth amendment to the United States Constitution. Montero v. Meyer, 790 F. Supp. 1531 (D. Colo. 1992).

Neither the secretary of state nor any reviewing court should be concerned with the merit or lack of merit of a proposed constitutional amendment. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

And a board acts wisely in refusing to use words in a title which would tend to color the merit of the proposal on one side or the other. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

The burden of proving procedural noncompliance rests with the petitioner, not with the proponents of the initiative. A presumption exists that the secretary of state properly determined the sufficiency of the filing of a petition to initiate a measure. Because the petitioner has not shown any defect in the proceeding that would destroy the board's jurisdiction in the matter, the petitioner's jurisdictional challenge is rejected. In re Petition on Campaign & Political Fin., 877 P.2d 311 (Colo. 1994).

Board is not required to give opinion regarding ambiguity of a proposed initiative, nor is it necessary for the board to be concerned with legal issues which the proposed initiative may create. Matter of Title, Ballot Title, Etc., 797 P.2d 1275 (Colo. 1990).

Task of the board is to provide a concise summary of the proposed initiative, focusing on the most critical aspects of the proposal, not simply to restate all of the provisions of the proposed initiative. Board not required to include every aspect of a proposal in the title and submission clause. In re Ballot Title 1999-2000 No. 235(a), 3 P.3d 1219 (Colo. 2000).

Board may be challenged when misleading summary of amendment prejudicial. A misleading summary of the fiscal impact of a proposed amendment is likely to create an unfair prejudice against the measure and is a sufficient basis, under this section, for challenging the board's action. In re An Initiated Constitutional Amendment, 199 Colo. 409, 609 P.2d 631 (1980).

Request for agency assistance at board's discretion. The decision of whether and from which of the two state agencies to request information is within the discretion of the board. Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

Technical correction of proposed initiative permitted. Allowing a technical correction of the proposed initiative to conform with the intent of the proponents does not frustrate the purpose of the statute. Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

Purpose of statutory time table for meetings of initiative title setting review board is to assure that the titles, submission clause, and summary of an initiated measure are considered promptly by the board well in advance of the date by which the signed petitions must be filed with the secretary of state. In re Second Initiated Constitutional Amendment, 200 Colo. 141, 613 P.2d 867 (1980); Matter of Title Concerning Sch. Impact Fees, 954 P.2d 586 (Colo. 1998).

Section not frustrated by next-day continuance of statutory date for last meeting. A continuance to the next day following the statutory date for the last meeting in order to comply fully with other statutory requirements does not frustrate the purpose of this section. In re Second Initiated Constitutional Amendment, 200 Colo. 141, 613 P.2d 867 (1980).

Initiative did not qualify for November 1997 election. The requisite signatures had to be filed in the first week of August, but the title setting was not until the third week in that month and the board could not meet

to consider the initiative before the third Wednesday in May of 1998. Matter of Title, Ballot Title for 1997-98 No. 30, 959 P.2d 822 (Colo. 1998).

Board had the authority to set a title, ballot title and submission clause, and summary for the proposed constitutional amendment at issue, but the question of the board's jurisdiction to set titles for a ballot issue in an odd-numbered year was premature, as the secretary of state, not the board, has the authority to place measures on the ballot. Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

Board had the authority to set the titles and summary of an initiative filed June 20, 1997, because the measure was eligible, at the earliest, for placement on the ballot in the November 1998 general election. In re Initiative #25A Concerning Hous. Unit Construction Limits, 954 P.2d 1063 (Colo. 1998).

Hearings on motions to reconsider. Even in odd numbered years, hearings on motions to reconsider decisions entered during the last meeting in May must be held within 48 hours of filing of the motion. Byrne v. Title Bd., 907 P.2d 570 (Colo. 1995); Matter of Title Concerning Sch. Impact Fees, 954 P.2d 586 (Colo. 1998).

When board may hold meetings. Under this section, the title setting board is subject to two specific prohibitions with regard to the timing of its meetings: (1) The board may not meet between an election and the first Wednesday in December in any year in which an election is held, and (2) the board may not meet after the third Wednesday in May to consider measures that will be voted on in the upcoming November election. Matter of Title Concerning Sch. Impact Fees, 954 P.2d 586 (Colo. 1998).

Meetings in July and August are proper when considering titles for a measure that will not be placed on the ballot until November of the following year. Matter of Title Concerning Sch. Impact Fees, 954 P.2d 586 (Colo. 1998).

Actions of state officers under this statute upheld. Bauch v. Anderson, 178 Colo. 308, 497 P.2d 698 (1972).

The board did not intrude on the jurisdiction of the supreme court by correcting two transcription errors in the summary after the matter was on appeal before the court. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

IV. TITLE; BALLOT TITLE AND SUBMISSION CLAUSE.

A. Sufficiency of Titles.

1. In General.

2. Titles Held Sufficient.

3. Titles Held Insufficient.

B. Submission Clause.

C. Catch Phrases.

D. When Ballot Title and Submission Clause Fixed.

E. Brevity Required.

F. Scope of Review.

A. Sufficiency of Titles.

1. In General.

The purpose of the title-setting process is to ensure that both the persons reviewing an initiative petition and the voters are fairly and succinctly advised of the import of the proposed law. In re Proposed Initiative on Educ. Tax Refund, 823 P.2d 1353 (Colo. 1991); Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

The clear title requirement seeks to accomplish the two overarching goals of preventing voter confusion and ensuring that the title of a proposed initiative adequately expresses the intended purpose of the initiative so that the voters, even if they are not familiar with the subject matter, can intelligently determine whether to support or oppose the proposed initiative. Robinson v. Dierking, 2016 CO 56, 413 P.3d 151.

A sufficiently clear title enables the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal. In re Ballot Title 2011-2012 No. 45, 2012 CO 26, 274 P.3d 576.

Initiated measure's title, as set by review board, must be proper and fair and must correctly and fairly express the true intent and meaning of the proposed measure. In re Second Initiated Constitutional Amendment, 200 Colo. 141, 613 P.2d 867 (1980); In re Proposed Initiative on Parental Notification of Abortions for Minors, 794 P.2d 238 (Colo. 1990).

Ballot title shall correctly and fairly express the true intent and meaning of the proposed measure and shall unambiguously state the principle of the provision sought to be added, amended, or repealed. In re Proposed Initiative for 1999-2000 No. 29, 972 P.2d 257 (Colo. 1999); Matter of Title, Ballot Title & Sub. Clause, & Summary for 1999-2000 No. 104, 987 P.2d 249 (Colo. 1999).

The titles must be fair, clear, accurate, and complete, but they need not set out every detail of the initiative. Court reviews titles set by the board with great deference and will only reverse the board's decision if the titles are insufficient, unfair, or misleading. In re Ballot Title 2005-2006 No. 73, 135 P.3d 736 (Colo. 2006).

In fixing titles and summaries, the board's duty is to capture, in short form, the proposal in plain, understandable, accurate language enabling informed voter choice. In re Ballot Title 1999-2000 No. 29, 972 P.2d 257 (Colo. 1999); Matter of Title, Ballot Title & Sub. Cl., & Summary for 1999-2000 No. 37, 977 P.2d 845 (Colo. 1999); Matter of Title, Ballot Title & Sub. Cl., & Summary for 1999-2000 No. 38, 977 P.2d 849 (Colo. 1999).

It is not the court's function to write the best possible titles. Only if the Board's chosen language is clearly inaccurate or misleading will the court reverse it. Nor is it the court's function to speculate on the future effects the initiative may have if it is adopted. Whether the initiative will indeed have the effect claimed by petitioners is beyond the scope of the court's review. In re

Ballot Title 1999-2000 No. 256, 12 P.3d 246 (Colo. 2000).

Title must clearly express the single subject of an initiative, correctly and fairly express the true meaning and intent of the initiative, enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose the proposal, and be brief. The title board is given discretion in resolving interrelated problems of length, complexity, and clarity in designating a title and must summarize the central features of a proposed initiative fairly. In re Title, Ballot Title & Submission Clause for 2019-2020 #315, 2020 CO 61, 500 P.3d 363.

Title board has considerable discretion in setting the title for a proposed initiative, the supreme court will employ all legitimate presumptions in favor of the propriety of the board's actions, and, when reviewing a title set by the board for clarity and accuracy, the court will reverse the board's actions only if the title is insufficient, unfair, or misleading. Robinson v. Dierking, 2016 CO 56, 413 P.3d 151; In re Proposed Ballot Initiative 2019-2020 No. 3 "State Fiscal Policy", 2019 CO 107, 454 P.3d 1056.

Title and summary fail to convey to voters the initiative's likely impact on state spending on state programs, therefore, they may not be presented to voters as currently written. Title and summary are not clear perhaps because the original text of the proposed initiative is difficult to comprehend. Matter of Title, Ballot Title & Sub. Cl., & Summary for 1999-2000 No. 37, 977 P.2d 845 (Colo. 1999).

In approaching the question as to whether a title is a proper one, all legitimate presumptions should be indulged in favor of the propriety of an attorney general's actions. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958); Matter of Title, Ballot Title, Etc., 850 P.2d 144 (Colo. 1993).

And if reasonable minds may differ as to the sufficiency of a title, the title should be held to be sufficient. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

Only in a clear case should a title so prepared be held insufficient. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

Burden for invalidating an amendment because of an alleged misleading ballot title, after adoption by the people in a general election, is heavy since the general assembly has provided procedures for challenging a ballot title prior to elections. Unless the challengers to the amendment can prove that so many voters were actually misled by the title that the result of the election might have been different, the challenge will fail. City of Glendale v. Buchanan, 195 Colo. 267, 578 P.2d 221 (1978).

And under the provisions of this section to the effect that an initiative petition shall contain a "submission clause" before being signed by electors, a petition which contains a ballot title together with the words "yes" and "no" and blank spaces opposite thereto, may be deemed to comply with the requirements of this section concerning submission clauses. Noland v.

Hayward, 69 Colo. 181, 192 P. 657 (1920) (decided under former law).

The board need not and cannot describe every feature of a proposed measure in the titles and submission clause. In re Proposed Initiative Concerning State Pers. Sys., 691 P.2d 1121 (Colo. 1984); In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

To require an item by item paraphrase of the proposed constitutional amendment or statutory provision would undermine the intended relatively short and plain statement of the board that sets forth the central features of the initiative. The aim is to capture, succinctly and accurately, the initiative's plain language to enable informed voter choice. Matter of Title, Ballot Title for 1997-98 No. 62, 961 P.2d 1077 (Colo. 1998).

Title board not required to include every aspect of a proposal in the title and submission clause, to discuss every possible effect, or provide specific explanations of the measure. In re Ballot Title 1999-2000 Nos. 245(b), 245(c), 245(d), & 245(e), 1 P.3d 720 (Colo. 2000); In re Ballot Title 1999-2000 Nos. 245(f) & 245(g), 1 P.3d 739 (Colo. 2000).

Board has discretion in resolving interrelated problems of length, complexity, and clarity in designating a title and ballot title and submission clause. Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

The board is charged with the duty to act with utmost dedication to the goal of producing documents which will enable the electorate, whether familiar or unfamiliar with the subject matter of a particular proposal, to determine intelligently whether to support or oppose such a proposal. In re Proposed Initiative Concerning "State Personnel System", 691 P.2d 1121 (Colo. 1984); Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

Duty to voters is paramount. Board should not resolve all ambiguities in favor of proponents when to do so would come at the expense of other, equally important duties. Board is statutorily required to exercise its authority to protect against public confusion and reject an initiative that cannot be understood clearly enough to allow the setting of a clear title. In re Proposed Initiative 1999-2000 No. 25, 974 P.2d 458 (Colo. 1999).

The board must avoid titles for which a general understanding of a "yes" or "no" vote would be unclear. In re Proposed Initiative Concerning "Automobile Insurance Coverage," 877 P.2d 853 (Colo. 1994).

Explanation of effect on existing law permitted. The board is not precluded from adopting language which explains to the signers of a petition and the voter how the initiative fits in the context of existing law, even though the specific language is not found in the text of the proposed statute. In re Title Pertaining to Sale of Table Wine in Grocery Stores, 646 P.2d 916 (Colo. 1982).

Although every possible effect need not be included. There is no requirement that every possible effect be included within the

title or the ballot title and submission clause. In re Title Pertaining to Sale of Table Wine in Grocery Stores, 646 P.2d 916 (Colo. 1982); Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

And the board is not required to explain the relationship between the initiative and other statutes or constitutional provisions. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

In considering whether the title, ballot title and submission clause, and summary accurately reflect the intent of the proposed initiative, it is appropriate to consider the testimony of the proponent concerning the intent of the proposed initiative that was offered at the public meeting at which the title, ballot title and submission clause, and summary were set. In re Proposed Initiated Constitutional Amendment Concerning Unsafe Workplace Env't, 830 P.2d 1031 (Colo. 1992).

Initiated measure's title will be rejected only if it is misleading, inaccurate, or fails to reflect the central features of the proposed initiative. Matter of Ballot Title 1997-98 No. 74, 962 P.2d 927 (Colo. 1998).

It is well established that the titles and summary of a proposed initiative need not spell out every detail of a proposed initiative in order to convey its meaning accurately and fairly. Matter of Ballot Title 1997-98 No. 74, 962 P.2d 927 (Colo. 1998).

In setting titles, the board must correctly and fairly express the true intent and meaning of the proposed initiative and must consider the public confusion that might be caused by misleading titles. In re Ballot Title 1999-2000 Nos. 245(b), 245(c), 245(d), & 245(e), 1 P.3d 720 (Colo. 2000); In re Ballot Title 1999-2000 Nos. 245(f) & 245(g), 1 P.3d 739 (Colo. 2000).

Title and summary are sufficient if a voter would not be confused about the nature of the initiative or its provisions regarding election information. Where the summary for an initiative concerning the procedures to be used to provide the public with information about a judge standing for a retention or removal election fully sets forth the information that will be provided to the public and discloses that no judicial performance commission reviews will be published, a voter would not be confused about the initiative or the provisions regarding election information. Matter of Title, Ballot Title & Sub. Clause, & Summary for 1999-2000 No. 104, 987 P.2d 249 (Colo. 1999).

2. Titles Held Sufficient.

The adoption of article X, section 20, of the Colorado constitution does not obligate the board to disclose every ramification of a proposed tax measure. Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

There is no requirement that the board state the effect an initiative will have on other constitutional and statutory provisions or describe every feature of a proposed measure in the titles. In re Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the Town of Burlington, 830 P.2d 1023

(Colo. 1992); In re Proposed Initiated Constitutional Amendment Concerning Limited Gaming in Manitou Springs, 826 P.2d 1241 (Colo. 1992); Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993); Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994); In re Petition on Campaign & Political Fin., 877 P.2d 311 (Colo. 1994).

Title was sufficient where it conveyed proposed initiative's singular purpose of providing a uniform definition of "fee" by repeating the language of the proposed definition. It was not necessary for the title to list every context in which the proposed definition might apply. In re Ballot Title 2013-2014 No. 129, 2014 CO 53, 333 P.3d 101.

Failure to mention existing similar statute of no effect. The failure to mention the existence of a statute addressing the same or similar subject as that of a proposed amendment does not have any effect on the acceptability of the titles, summary, and submission clause. In re Proposed Initiative on Transf. of Real Estate, 200 Colo. 40, 611 P.2d 981 (1980).

No requirement that provisions of section to be repealed must be set out in the ballot title and submission clause. Matter of Proposed Constitutional Amendment, 757 P.2d 132 (Colo. 1988).

Brief title for measure to repeal a single complex constitutional provision can satisfy the clear title requirement. Title set for a proposed measure to repeal the Taxpayer's Bill of Rights as "an amendment to the Colorado constitution concerning the repeal of the Taxpayer's Bill of Rights, article X, section 20, of the Colorado constitution" satisfies the clear title requirement. The title clearly specifies the purpose of the measure and allows voters to determine intelligently whether to support it. Listing specific features of the provision being repealed would have made the title longer and more difficult to read, and picking and choosing which provisions to list would likely have led to contentions that the title is not impartial. "Taxpayer's Bill of Rights" is not a prohibited catchphrase because it does no more than invoke the name of the constitutional provision that the measure would repeal and properly and impartially explains to voters what the measure seeks to achieve. In re Proposed Ballot Initiative 2019-2020 No. 3 "State Fiscal Policy", 2019 CO 107, 454 P.3d 1056.

Where an initiative includes language that states, "This section was adopted by a vote of the people at the general election in 1998", the title board need not include this language in the summary or title. The general assembly may amend or repeal statutory provisions regardless of whether they are voter approved or not. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Board had no duty to reveal in the title, ballot title and submission clause, and summary the alleged irrepealability of initiative during a certain period where initiative did not state anywhere that it was "irrepealable" and petitioner failed to provide any evidence of proponent's intent to effect an irrepealability clause. Matter of

Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

Reference does not have to be made in the ballot title to the purpose of the initiative. The fact that disability benefits were to be provided at a reasonable cost to employers was not essential for title setting purposes. The title setting board is not required to describe every feature of a proposed measure in the title or submission clause. Matter of Proposed Initiated Constitutional Amendment Concerning the Fair Treatment of Injured Workers Amendment, 873 P.2d 718 (Colo. 1994).

Subsection (3)(b) requires that conflicting ballot titles distinguish between overlapping or conflicting proposals. Petitioners' claim that the board had erred by not specifying that the proposed amendment conflicted with the Workers' Choice of Care Amendment was rejected. The court held that there was no "discernible conflict" between the two ballot titles. Matter of Proposed Initiated Constitutional Amendment Concerning the Fair Treatment of Injured Workers Amendment, 873 P.2d 718 (Colo. 1994).

Board was not required to interpret meaning of two conflicting provisions in initiative or indicate whether they would conflict where two conflicting amendments may be proposed or even adopted at same election and where board disclosed both provisions in the title and submission clause. Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

Although the texts of two initiatives are similar, the titles and submission clauses set by the board accurately reflect an important distinction between them. Voters comparing the titles and submission clauses for the two measures would be able to distinguish between the measures and would not be misled into voting for or against either measure by reason of the words chosen by the board. In re Proposed Initiated Constitutional Amendment, 877 P.2d 329 (Colo. 1994).

Although the first clause of the title for two conflicting measures is the same, the subsequent clauses are different and reflect the distinctions between the two measures; therefore, the titles of the two measures do not conflict. In re Ballot Title 2007-2008 No. 61, 184 P.3d 747 (Colo. 2008).

The title board's failure to include a reference to other related proposed initiatives in title and summary of initiative do not make them misleading. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Not specifying where gambling would be lawful or which city ordinances would be applicable was not essential to nor fatal to the title. Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994).

It is not the function of the Board to disclose every possible interpretation of the language of the initiative. In re Prop. Init. "Fair Fishing", 877 P.2d 1355 (Colo. 1994).

The title, submission clause, and summary must reflect the intent of the initiative as drafted. They need not reflect

intentions of the proponents that are not expressed in the measure itself. In re Proposed Initiative on Water Rights, 877 P.2d 321 (Colo. 1994).

Board is not required to give opinion regarding ambiguity of a proposed initiative, nor is it necessary for the board to be concerned with legal issues which the proposed initiative may create. Matter of Title, Ballot Title, Etc., 797 P.2d 1275 (Colo. 1990).

Board is not required to consider and resolve potential or theoretical disputes or determine the meaning or application of proposed amendment. Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

Board's duty is merely to summarize central features of initiated measure in the title, ballot title and submission clause, and summary in a clear and concise manner. Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

There is no requirement that ballot title and submission clause identify any articles or sections which are amended. Matter of Title, Ballot Title, Etc., 797 P.2d 1275 (Colo. 1990).

No clear case presented for the invalidation of titles fixed by the board where the wording of the titles attributes a meaning to the text that is reasonable, although nor free from all doubt, and relates to a feature of the proposed law that is both peripheral to its central purpose and of limited temporal relevance. In re Proposed Initiative Concerning Drinking Age, 691 P.2d 1127 (Colo. 1984).

Titles were not insufficient for failure to contain the general subject matter of the proposed constitutional amendment or because the provisions of the proposed amendment were listed chronologically rather than in order of significance. Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

The fact that the ballot title contains two separate paragraphs that are not identical does not make the ballot title ambiguous for purposes of this section. The relevant determination is whether the two paragraphs are sufficiently different such that a voter reasonably could vote in favor of the question as presented in one paragraph and yet decide to vote against the question as presented in the other paragraph. It is implausible to suggest that a voter reasonably could have considered voting in favor of one paragraph in the ballot title and against the other paragraph where the only difference between the two paragraphs is that one paragraph is slightly more detailed than the other. Bickel v. City of Boulder, 885 P.2d 215 (Colo. 1994).

All three of the main tax issues were set forth in the title, submission clause, and summary with sufficient particularity to apprise voters that the proposed amendment would increase taxes on cigarettes and tobacco products. Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

It was within the board's discretion to omit information from the title or submission clause regarding the creation of a citizen's commission on tobacco and health and that spending categories and

required appropriations contained in the proposed amendment could only be changed by a subsequent constitutional amendment since neither were central features to the proposal. Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

Absence of definitions was distinguishable from situation in In re Proposed Initiative on Parental Notification of Abortions for Minors, 794 P.2d 238 (Colo. 1990), since although the definitions may have been broader than common usage in some respects and narrower in others, they appeared to be included for sake of brevity and they would not adopt a new or controversial legal standard which would be of significance to all concerned with the issues surrounding election reform. Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

The titles are not required to include definitions of terms unless the terms adopt a new or controversial legal standard that would be of significance to all concerned with the initiative. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

And the board is not usually required to define a term that is undefined in the proposed measure. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

A title and summary that repeat or reword much of the language of the proposed initiative and contain complex clauses are not insufficient if they fairly express the intent and meaning of the proposed initiative. Percy v. Hayes, 954 P.2d 1063 (Colo. 1998).

Titles are fair, sufficient, and clear. Titles track the language of the proposed initiative. By using general language suggesting initiative limited to "tax or debt campaigns", titles fairly put public on notice that provision applies to any election that affects taxes or the creation of public debt. Although titles do not mention "pass-through" or "pooling" provisions of proposed initiative, these provisions are not central features of the measure. Finally, because titles state that any election that violates provisions of the initiative is void, titles that fail to disclose that district must refund moneys collected in violation of initiative are not confusing, and voters would not be misled. In re Ballot Title 2005-2006 No. 73, 135 P.3d 736 (Colo. 2006).

Title is fair, clear, and accurate and includes the central features of the proposed initiative. In re Ballot Title 2007-2008 No. 57, 185 P.3d 142 (Colo. 2008); In re Ballot Title 2013-2014 No. 89, 2014 CO 66, 328 P.3d 172; In re Ballot Title 2013-2014 Nos. 90 & 93, 2014 CO 63, 328 P.3d 155.

Title clearly and fairly expressed single subject of the public's rights in the water of natural streams. In re Ballot Title 2011-2012 No. 3, 2012 CO 25, 274 P.3d 562.

Title satisfied the clear title requirement, even though it necessarily contained several terms of art due to the technical nature of state water law, because it expressly stated a single subject of public control of water and summarized clarifying provisions of the proposed initiative so that the voters could understand the initiative's purpose and substance. In re Ballot Title

2011-2012 No. 45, 2012 CO 26, 274 P.3d 576.

Where a measure includes both constitutional amendments and statutory changes, the title need not specifically indicate that a provision establishing a new sales tax on tobacco-derived nicotine vapor products is statutory rather than constitutional. Where the measure would also reallocate existing funding from several programs to a new preschool program, it was sufficient for the title board to summarize generally the category of programs from which funding would be reallocated rather than listing all of the programs or "key" programs. In re Title, Ballot Title & Submission Clause for 2019-2020 #315, 2020 CO 61, 500 P.3d 363.

Title of initiative is not likely to mislead voters as to initiative's purpose or effect and does not conceal hidden intent. Whether initiative prevents the legislature from enacting certain laws or prohibits their enforcement is immaterial since the effect is the same and is clearly expressed in the title: No Colorado law that requires an individual to participate in a health care plan or prevents an individual from paying directly for health care services will be permissible under the state constitution. In re Title, Ballot Title, Sub. Cl. for 2009-2010 No. 45, 234 P.3d 642 (Colo. 2010).

3. Titles Held Insufficient.

A title and submission clause do not fairly and accurately reflect the intent and purpose of an initiative if the voters are not informed that the intent is to prevent the state courts from adopting a definition of obscenity that is broader than under the U.S. constitution. In re Proposed Initiative on "Obscenity", 877 P.2d 848 (Colo. 1994).

Titles set by board create confusion and are misleading because they do not sufficiently inform the voter of the parental-waiver process and its virtual elimination of bilingual education as a viable parental and school district option. In re Ballot Titles 2001-02 No. 21 & No. 22, 44 P.3d 213 (Colo. 2002).

Illogical and inherently confusing title does not satisfy clear title requirement even if it substantially tracks the actual language of a proposed initiative and thus may faithfully express its intent. Where ballot title language suggested that a proposed initiative would prohibit the issuance of liquor licenses only to food stores that already have such licenses, voters would be confused as to the intent of the initiative and would be prevented from intelligently choosing whether to vote for or against it. Robinson v. Dierking, 2016 CO 56, 413 P.3d 151.

Failure of title, ballot title, and submission clause to include definition of abortion which would impose a new legal standard which is likely to be controversial made title, ballot title, and submission clause deficient in that they did not fully inform signers of initiative petitions and voters and did not fairly reflect the contents of the proposed initiative. In re Proposed Initiative on Parental Notification of Abortions for Minors, 794 P.2d 238 (Colo. 1990); In re Proposed Initiative

Concerning "Automobile Insurance Coverage", 877 P.2d 853 (Colo. 1994).

Titles set by the board were insufficient in that they did not state that the proposal would impose mandatory fines for willful violations of the campaign contribution and election reforms, they did not state that the proposal would prohibit certain campaign contributions from certain sources, they did not state that the proposal would make both procedural and substantive changes to the petition process, and they did not specifically list the changes to the numbers of seats in the house of representatives and the senate. Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

Ballot title was misleading because of the order in which the material was presented. The court held that in order to correctly and fairly express the true intent and meaning of the initiative all provisions concerning the city of Antonito must be grouped together. Further, the board could arrange the title to reflect the subject matter at issue. Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994).

Repetition of the language from the initiative itself in the title and submission clause does not necessarily ensure that the voters will be apprised of the true intent and purpose of the initiative. In re Proposed Initiative on "Obscenity", 877 P.2d 848 (Colo. 1994); In re Ballot Titles 2001-02 No. 21 & No. 22, 44 P.3d 213 (Colo. 2002).

Where the board deferred to the proponents' statements of intent and attempted to set a title reflective of such intent, but the record showed that the board itself did not fully understand the measure, title was not sufficiently clear and board was directed to strike the title and return the measure to the proponents. In re Proposed Initiative 1999-2000 No. 25, 974 P.2d 458 (Colo. 1999).

Ballot title found insufficient. The title "Petition Procedures" fails to convey the fact that the initiative would create numerous "fundamental rights" retroactively to 1990 unrelated to procedural changes. Amendment to Const. Section 2 to Art. VII, 900 P.2d 104 (Colo. 1995).

Title was so general that it did not contain sufficient information to enable voters to determine intelligently whether to support or oppose the initiative as required under subsection (3)(b). Additionally, the title was misleading because it included one category of persons barred from holding office, but omitted another category of such persons. Last, the title unnecessarily stated existing law. Matter of Title, Ballot Title, & Sub. Clause for 2015-2016 No. 73, 2016 CO 24, 369 P.3d 565.

Ballot title found insufficient and misleading. In re Tax Reform, 797 P.2d 1283 (Colo. 1990).

In a proceeding involving the sufficiency of a ballot title and submission clause for a proposed initiative amendment to the state constitution, it was held that the title as fixed by the statutory board was deficient as indicated, and the title was amended in conformity with a stipulation of the parties, and as amended, approved.

Jennings v. Morrison, 117 Colo. 363, 187 P.2d 930 (1947).

Title was misleading as to the true intent and meaning of the proposed initiative where the title and summary did not contain any indication that the geographic area affected would have been limited, and therefore there would be a significant risk that voters statewide would have misperceived the scope of the proposed initiative. Matter of Proposed Initiative 1996-17, 920 P.2d 798 (Colo. 1996).

Title was misleading because combination of language specifying that parents of non-English speaking children could opt out of an English immersion program in favor of a bilingual education program and lack of language specifying that school districts would be prohibited from requiring schools to offer bilingual education programs had the potential to mislead voters into thinking parents would have a choice between English immersion and bilingual education programs when bilingual programs actually might not be available in many instances. In re Ballot Title 1999-2000 No. 258(A), 4 P.3d 1094 (Colo. 2000).

Title board directed on remand to fix the ballot title and submission clause of proposed initiatives where the language of the designated titles is inconsistent with their summaries. In re Ballot Title 1999-2000 Nos. 245(b), 245(c), 245(d), & 245(e), 1 P.3d 720 (Colo. 2000).

The title and summary on an initiative concerning judicial personnel held unclear. Title and summary contain contradictory language regarding the definition of personnel, and a voter would not be able to determine which judicial personnel were included in the initiative. Matter of Title, Ballot Title & Sub. Clause, & Summary for 1999-2000 No. 104, 987 P.2d 249 (Colo. 1999).

The title and summary on an initiative concerning the procedure used to remove a judge held unclear. Language in the summary, which was repeated verbatim from the language of the initiative but was not explained or analyzed in the summary, creates confusion and ambiguity and is therefore insufficient. Matter of Title, Ballot Title & Sub. Clause, & Summary for 1999-2000 No. 104, 987 P.2d 249 (Colo. 1999).

B. Submission Clause.

To submit means to present and leave to the judgment of the qualified voters. Noland v. Hayward, 69 Colo. 181, 192 P. 657 (1920).

The submission clause is the one that appears on the ballot at the election and upon which the electorate may vote for or against the proposed amendment. Dye v. Baker, 143 Colo. 458, 354 P.2d 498 (1960); Henry v. Baker, 143 Colo. 461, 354 P.2d 490 (1960).

But the expression "submission clause" was used in referring to a ballot title or to the matter which went upon the ballot and which was before the electors at the time they cast their respective votes for or against the initiated measure. In People ex rel. Moore v. Perkins, 56 Colo. 17, 137 P. 55 (1913).

Nevertheless, it should fairly and succinctly advise the voters what is being submitted, so that in the haste of an election the voter will not be misled into voting for or against a proposition by reason of the words employed. Dye v. Baker, 143 Colo. 458, 354 P.2d 498 (1960).

C. Catch Phrases.

"Catch phrases," or words which could form the basis of a slogan for use by those who expect to carry on a campaign for or against an initiated constitutional amendment, should be carefully avoided by the statutory board in writing a ballot title and submission clause. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958); Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

The title board should avoid the use of catch phrases or slogans in the title, ballot title and submission clause, and summary of proposed initiatives. In re Ballot Title 1999-2000 No. 258(A), 4 P.3d 1094 (Colo. 2000).

"Catch phrases" are forbidden in ballot titles. Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

And where a catch phrase was used in the submission clause by the statutory board in fixing a submission clause and ballot title to a proposed constitutional amendment, the supreme court, on review, remanded the matter to the board with instruction to revise the submission clause by elimination of the catch phrase. Henry v. Baker, 143 Colo. 461, 354 P.2d 490 (1960); Dye v. Baker, 143 Colo. 458, 354 P.2d 498 (1960).

Words "rapidly and effectively as possible" are a prohibited "catch phrase" because they mask the policy question of whether the most rapid and effective way to teach English to non-English speaking children is through an English immersion program and tip the substantive debate surrounding the issue to be submitted to the electorate. In re Ballot Title 1999-2000 No. 258(A), 4 P.3d 1094 (Colo. 2000).

The words "adjusted net proceeds" and "adjusted gross proceeds" are not prohibited "catch phrases". The fact that such phrases were not defined in the initiative reflected the proponent's intent that the legislature interpret their meaning. Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994).

The phrase "be on" the water is not misleading and is sufficiently clear. In Re Prop. Init. "Fair Fishing", 877 P.2d 1355 (Colo. 1994).

Because the proposed amendment contains no definition of the term "strong public trust doctrine", such a definition must await future judicial construction and cannot appropriately be included in the title or submission clause. In re Proposed Initiative on Water Rights, 877 P.2d 321 (Colo. 1994).

The phrase "refund to taxpayers" is not an inherently prohibited catch phrase. The term "refund" may be characterized inaccurately when read in isolation. When read in the context in which the term is used in the titles and summary and in the proposed initiative, however, the special

sense of "refund" is adequately clarified. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Deterioration of a group of terms into an impermissible catch phrase is an imprecise process. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Use of the phrase "to preserve . . . the social institution of marriage" in titles and summaries of measures to recognize marriage between a man and a woman as valid does not constitute an impermissible catch phrase that may create prejudice in violation of this section. In re Ballot Title 1999-2000 Nos. 227 & 228, 3 P.3d 1 (Colo. 2000).

The phrase "concerning the management of growth" is neutral, with none of the hallmarks that have characterized catch phrases in the past. In re Ballot Title 1999-2000 No. 256, 12 P.3d 246 (Colo. 2000).

"Term limits" is not a catch phrase. In re Ballot Title 2005-2006 No. 75, 138 P.3d 267 (Colo. 2006).

"Criminal conduct" is not a catch phrase. The phrase does not contain an appeal to emotion that would prejudice a vote; it is simply a descriptive term. In re Ballot Title 2007-2008 No. 57, 185 P.3d 142 (Colo. 2008).

"Right of health care choice" is not an impermissible catch phrase. The phrase is a descriptive term that presents the issue to voters in a straightforward manner, and though somewhat generic, the phrase is followed directly by language in the title that clarifies and narrows its meaning. In re Title, Ballot Title, Sub. Cl. for 2009-2010 No. 45, 234 P.3d 642 (Colo. 2010).

The phrase "statewide setback" is not an impermissible catch phrase. It tracks the language of the text of the proposed initiative, it is merely descriptive, and it neither evokes emotion nor engenders voter confusion. In re Ballot Title 2013-2014 Nos. 85, 86, 87, 2014 CO 62, 328 P.3d 136.

The terms "healthy environment" and "fundamental right" are not impermissible catch phrases because they accurately describe the right that the initiative seeks to create and do not improperly distract voters or appeal to their emotions. In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63, 2016 CO 34, 370 P.3d 628.

The phrase "Taxpayer's Bill of Rights" is not a prohibited catchphrase because it does no more than invoke the name of the constitutional provision that the measure would repeal and properly and impartially explains to voters what the measure seeks to achieve. In re Proposed Ballot Initiative 2019-2020 No. 3 "State Fiscal Policy", 2019 CO 107, 454 P.3d 1056.

D. When Ballot Title and Submission Clause Fixed.

The titles and submission clause of an initiated measure were fixed and determined within the meaning of this section on the date that the three designated officials convened and fixed a title, ballot title and submission clause, and not on the date that the right of appeal from their

decision expired. Baker v. Bosworth, 122 Colo. 356, 222 P.2d 416 (1950).

E. Brevity Required.

Ballot title and submission clause of proposed initiative measure must be brief. In re Second Initiated Constitutional Amendment, 200 Colo. 141, 613 P.2d 867 (1980).

The board is given considerable discretion in resolving the interrelated problems of length, complexity, and clarity in designating a title and submission clause. In re Proposed Initiative Concerning State Personnel Sys., 691 P.2d 1121 (Colo. 1984); Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

If a choice must be made between brevity and a fair description of essential features of a proposal, where a complex measure embracing many different topics is involved and the titles and summary cannot be abbreviated by omitting references to the measure's salient features, the decision must be made in favor of full disclosure to the registered electors. Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

Ballot title and submission clause did not comply with the brevity requirement where the ballot title and submission clause for proposed constitutional amendment, as fixed by the administrative board, contained 369 words while the proposed amendment itself contained but 505 words. Cook v. Baker, 121 Colo. 187, 214 P.2d 787 (1950).

F. Scope of Review.

The court's scope of review is limited to ensuring that the title, ballot title and submission clause and summary fairly reflect the proposed initiative so that petition signers and voters will not be misled. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

There is a presumption in favor of decisions made by the title board. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Board's actions are presumptively valid, and this presumption precludes the court from second-guessing every decision the board makes in setting a title. In re Ballot Title 1999-2000 No. 235(a), 3 P.3d 1219 (Colo. 2000).

The court gives great deference to the board's drafting authority. Matter of Title, Ballot Title for 1997-98 No. 80, 961 P.2d 1120 (Colo. 1998); In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

It is not the function of the court to rewrite the titles and summary to achieve the best possible statement of the proposed measure's intent, and the court will reverse the board's action in setting the titles only when the language chosen is clearly misleading. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

While subsection (3)(b) requires that the title "correctly and fairly express the true intent and meaning" of the initiative, it is not the court's role to rephrase the language adopted by the board to obtain the most precise and exact title. Matter of Increase of

Taxes on Tob. Prod. Initiative, 756 P.2d 995 (Colo. 1988); In re Ballot Title 2007-2008 No. 61, 184 P.3d 747 (Colo. 2008).

The title board's function is extremely important in light of the court's limited scope of review of the board's actions, and the court will not address the merits of a proposed initiative, interpret its language, or predict its application. In re Proposed Election Reform Amend., 852 P.2d 28 (Colo. 1993); In re Proposed Initiative on Fair Treatment of Injured Workers, 873 P.2d 718 (Colo. 1994); In re Petition on Campaign & Political Fin., 877 P.2d 311 (Colo. 1994); Matter of Title, Ballot Title & Sub. Clause, & Summary for 1999-2000 No. 104, 987 P.2d 249 (Colo. 1999).

Court will not rewrite the titles or submission clause for the board. Also, the court will reverse the board's action in preparing the title or submission clause only if the title and submission clause contain a material omission, misstatement, or misrepresentation. Matter of Title, Ballot Title for 1997-98 No. 62, 961 P.2d 1077 (Colo. 1998); In re Ballot Title 1990-2000 No. 29, 972 P.2d 257 (Colo. 1999).

Not within the purview of the court to determine the efficacy, construction, or future application of an initiative in the process of reviewing the action of the title board in setting titles for a proposed initiative. Such matters are more appropriately addressed in a proper case if the voters approve the initiative. In re Ballot Title 1999-2000 No. 235(a), 3 P.3d 1219 (Colo. 2000).

Upon review, supreme court treats actions of board as presumptively valid. Supreme court will not address the merits of a proposed initiative, interpret its language, or predict its application. In re Ballot Title 1999-2000 Nos. 245(b), 245(c), 245(d), & 245(e), 1 P.3d 720 (Colo. 2000); In re Ballot Title 1999-2000 Nos. 245(f) & 245(g), 1 P.3d 739 (Colo. 2000).

Title board has considerable discretion in setting the titles for a ballot initiative, the supreme court will employ all legitimate presumptions in favor of the propriety of the board's actions, and the board's designation of a title will only be reversed if the title is insufficient, unfair, or misleading. In re Ballot Title 2011-2012 No. 3, 2012 CO 25, 274 P.3d 562.

Presumption of validity precludes supreme court from second-guessing every decision board makes in setting titles. In re Ballot Title 1999-2000 Nos. 245(b), 245(c), 245(d), & 245(e), 1 P.3d 720 (Colo. 2000); In re Ballot Title 1999-2000 Nos. 245(f) & 245(g), 1 P.3d 739 (Colo. 2000).

The title board need not set the best possible title. The supreme court affords the title board great deference in the exercise of its drafting authority and will reverse the title board's decision in setting a title only if the title is insufficient, unfair, or misleading. In re Ballot Title 2011-2012 No. 45, 2012 CO 26, 274 P.3d 576.

Supreme court's review of title board's actions is limited, and the court will not address the merits of a proposed initiative or construe the future legal effects of an initiative. The court will, however, when

necessary, characterize a proposal sufficiently to enable review of the board's actions and to determine whether the initiative contains incongruous or hidden purposes or bundles incongruous measures under a broad theme. In re Ballot Title 2005-2006 No. 55, 138 P.3d 273 (Colo. 2006).

V. SUMMARY AND FISCAL IMPACT STATEMENT.

Impartiality required in summary. The summary prepared by the board must be true and impartial statement of intent of proposed law and must not be an argument, nor likely to create prejudice either for or against the measure. In re Branch Banking Initiative, 200 Colo. 85, 612 P.2d 96 (1980); In re Second Initiated Constitutional Amendment, 200 Colo. 141, 613 P.2d 867 (1980); Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

And summary is to include estimate of any fiscal impact upon the state or any of its political subdivisions with an explanation thereof. In re Second Initiated Constitutional Amendment, 200 Colo. 141, 613 P.2d 867 (1980); Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

Unless fiscal impact cannot be determined. Where the fiscal impact upon local government could not be determined because of the variables involved, a definitive statement concerning fiscal impact is not required. Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

School districts and school boards are "political subdivisions of the state" as to which fiscal impact is to be estimated. Matter of Title Concerning Sch. Impact Fees, 954 P.2d 586 (Colo. 1998).

Purpose of including fiscal impact statement in the summary is to inform the electorate of fiscal implications of proposed measure. Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

In formulating a fiscal impact statement, the board is not limited to information submitted by the department of local affairs or the office of state planning and budgeting. Nor is the board required to accept at face value the information provided to it. Percy v. Hayes, 954 P.2d 1063 (Colo. 1998).

Faced with conflicting evidence regarding the fiscal impact, the board's determination that the proposed measure "may" have a negative fiscal impact on certain local governments was consistent with its statutory authority. Percy v. Hayes, 954 P.2d 1063 (Colo. 1998).

The fiscal impact statement was adequate, and the title board was within its discretion in not speculating in that statement about whether the transportation commission would impose tolls. Matter of Proposed Initiative 1997-98 No. 10, 943 P.2d 897 (Colo. 1997).

The fiscal impact statement adequately described impact because it estimated current costs, included a one-time cost for a water pump prior to the effective date of the initiative, included no speculation of the water district's obligation to the department of wildlife for fish and wildlife expenses, and provided an estimate for possible litigation costs because of the measure. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Fiscal impact statement not incomplete or inaccurate because it did not include any long range estimate of the costs of elections through the year 2013. The title board was not required to provide a further elaboration of the costs through the year 2013, even though the department of local affairs presented an estimate in a letter. The board had discretion to omit the estimate from the fiscal impact statement. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

The board is not required to determine the exact fiscal impact of each proposed measure; if the board finds that the proposed initiative will have a fiscal impact on the state or any of its political subdivisions, the summary must include an estimate and explanation. Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

The board may properly exercise its judgment in concluding that the fiscal impact upon local government cannot be determined because of the variables involved. In re Title Pertaining to Sale of Table Wine in Grocery Stores, 646 P.2d 916 (Colo. 1982); Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

The board may properly find that certain costs are indeterminate because of the variables and uncertainties involved. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

The title board is not required to spell out every detail of a proposed initiative in order to convey its meaning accurately and fairly. Only where the language chosen is clearly misleading will the court revise the title board's formulation. Matter of Ballot Title 1997-98 No. 74, 962 P.2d 927 (Colo. 1998).

Omission of a sentence describing the proposed initiative's legislative declaration does not render the summary clearly misleading to the electorate. In re Ballot Title 1999-2000 No. 265, 3 P.3d 1210 (Colo. 2000).

A separate explanation of the fiscal impact of a measure is not required when the fiscal impact cannot be reasonably determined from the materials submitted to the board due to the variables or uncertainties inherent in the particular issue. In re Title Pertaining to Tax Reform, 797 P.2d 1283 (Colo. 1990); Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994); In re Proposed Initiative on "Trespass - Streams With Flowing Water", 910 P.2d 21 (Colo. 1996); Matter of Proposed Initiative 1997-98 No. 10, 943 P.2d 897 (Colo. 1997).

Given the disparate conclusions regarding the fiscal impact of the measure, the board acted within its authority in making the decision to include in the summary the statement that the net effect of the changes on state or local governments was not known. Matter of Title, Ballot Title & S. Clause, 872 P.2d 689 (Colo. 1994).

If provisions of measure do not produce a separate and conflicting impact and the aggregate impact is known, each provision of the proposed amendment need not be addressed individually in the

statement of fiscal impact. Where the board cannot determine the aggregate fiscal impact of a proposed measure, but has adequate information to assess the impact of a particular provision, the board should state with specificity which provision will have fiscal impacts that are capable of being estimated and which are truly indeterminate. In re Petition on Campaign & Political Fin., 877 P.2d 311 (Colo. 1994).

Explanation of fiscal impact not required given the complexity of the issues and uncertainty expressed by the department of revenue. The board's conclusion that the fiscal impact was indeterminate was reasonable. Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994).

Lack of specificity held justified. The Board has no independent fact-finding ability and its choice of language was judicious and within its authority. The fiscal impact could not reasonably be determined because of inherent uncertainties in the text of the amendment. In Re Prop. Init. "Fair Fishing", 877 P.2d 1355 (Colo. 1994).

Statement of fiscal impact was insufficient since, although the board was not required to include a definitive estimate of any fiscal impact on the state or its political subdivisions when that impact cannot be determined because of the variables involved, where the indeterminacy resulted from the multitude of provisions having separate and sometimes conflicting fiscal impacts producing an indeterminate aggregate impact and the board had sufficient information to assess the fiscal impact of each provision in isolation, the board should state with specificity which provisions will have fiscal impacts which are capable of being estimated, and which are truly indeterminate. Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

Board has discretion in exercising its judgment in how to best communicate that a proposed measure will have a fiscal impact on government without creating prejudice for or against the measure. Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

Statement of fiscal impact was insufficient where it did not include estimates of the initiative's impact on school boards. Matter of Title Concerning Sch. Impact Fees, 954 P.2d 586 (Colo. 1998).

Fiscal impact statement was inaccurate description of the fiscal impact of initiative where the office of state planning and budgeting prepared two cost estimates based on two possible scenarios. Matter of Proposed Initiative 1996-17, 920 P.2d 798 (Colo. 1996).

Request for agency assistance at board's discretion. The decision of whether and from which of the two state agencies to request information is within the discretion of the board. Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

Summary need not mention the effect of the amendment on an existing statute addressing the same or a similar subject as the proposed amendment. In re Mineral Prod. Tax Initiative, 644 P.2d 20 (Colo. 1982).

Board is not required to explain meaning or potential effects of proposed initiative on the present statutory scheme in the summary. Matter of Title, Ballot Title & S. Clause, 875 P.2d 207 (Colo. 1994).

The board is not required to provide lengthy explanations of every portion of a proposed constitutional amendment as overly detailed titles and submission clauses could by their very length confuse voters. In re Proposed Initiative Concerning State Personnel Sys., 691 P.2d 1121 (Colo. 1984).

Mere ambiguity of a summary, if not clearly misleading, does not require disapproval by court. In re Proposed Initiative Concerning State Personnel Sys., 691 P.2d 1121 (Colo. 1984).

Board may be challenged when misleading summary of amendment prejudicial. A misleading summary of the fiscal impact of a proposed amendment is likely to create an unfair prejudice against the measure and is a sufficient basis, under this section, for challenging the board's action. In re An Initiated Constitutional Amendment, 199 Colo. 409, 609 P.2d 631 (1980).

The titles and summary were not misleading since they tracked the language of the initiative, and any problems in the interpretation of the measure or its constitutionality were beyond the functions assigned to the title board and outside the scope of the court's review of the title board's actions. Matter of Proposed Initiative 1997-98 No. 10, 943 P.2d 897 (Colo. 1997).

Proposed initiative violates the single-subject requirement because it (1) provides for tax cuts and (2) imposes mandatory reductions in state spending on state programs. Matter of Proposed Initiative 1997-98 No. 86, 962 P.2d 245 (Colo. 1998).

Use of the word "of" in the initiative summary instead of the word "by" does not create confusion on how directors of a board are selected. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Failure of title and summary to specify which taxpayers would receive a refund if one is necessary does not render the title or summary confusing. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Title summary not misleading because it identified uncertainties of the effect of the measure by noting that a surplus may be created by the payments under the initiative and any surplus may be refunded to the taxpayers under TABOR, article X, § 20, of the Colorado Constitution. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

1-40-106.5. Single-subject requirements for initiated measures and referred constitutional amendments - legislative declaration.

(1) The general assembly hereby finds, determines, and declares that:

(a) Section 1 (5.5) of article V and section 2 (3) of article XIX of the state constitution require that every constitutional amendment or law proposed by initiative and every constitutional amendment proposed by the general assembly be limited to a single subject, which shall be clearly expressed in its title;

(b) Such provisions were referred by the general assembly to the people for their approval at the 1994 general election pursuant to Senate Concurrent Resolution 93-4;

(c) The language of such provisions was drawn from section 21 of article V of the state constitution, which requires that every bill, except general appropriation bills, shall be limited to a single subject, which shall be clearly expressed in its title;

(d) The Colorado supreme court has held that the constitutional single-subject requirement for bills was designed to prevent or inhibit various inappropriate or misleading practices that might otherwise occur, and the intent of the general assembly in referring to the people section 1 (5.5) of article V and section 2 (3) of article XIX was to protect initiated measures and referred constitutional amendments from similar practices;

(e) The practices intended by the general assembly to be inhibited by section 1 (5.5) of article V and section 2 (3) of article XIX are as follows:

(I) To forbid the treatment of incongruous subjects in the same measure, especially the practice of putting together in one measure subjects having no necessary or proper connection, for the purpose of enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits;

(II) To prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced upon voters.

(2) It is the intent of the general assembly that section 1 (5.5) of article V and section 2 (3) of article XIX be liberally construed, so as to avert the practices against which they are aimed and, at the same time, to preserve and protect the right of initiative and referendum.

(3) It is further the intent of the general assembly that, in setting titles pursuant to section 1 (5.5) of article V, the initiative title setting review board created in section 1-40-106 should apply judicial decisions construing the constitutional single-subject requirement for bills and should follow the same rules employed by the general assembly in considering titles for bills.

Source: L. 94: Entire section added, p. 73, § 1, effective January 19, 1995.

Editor's note: Section 2 of chapter 22, Session Laws of Colorado 1994, provided that the act enacting this section was effective on the date of the proclamation of the Governor announcing

the approval, by the registered electors of the state, of SCR 93-004, enacted at the First Regular Session of the Fifty-ninth General Assembly. The date of the proclamation of the Governor announcing the approval of SCR 93-004 was January 19, 1995. (See L. 95, p. 1427.)

ANNOTATION

Law reviews. For article, "The Single-Subject Requirement For Initiatives", see 29 Colo. Law. 65 (May 2000).

The supreme court employs all legitimate presumptions in favor of the propriety of the title board's actions and will overturn the title board's finding that a proposed initiative contains a single subject only in a clear case. Title, Ballot Title & Sub. Clause for 2015-2016 No. 132, 2016 CO 55, 374 P.3d 460.

In determining whether a proposed measure contains more than one subject, the court may not interpret the language of the measure or predict its application if it is adopted. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

In order to violate the single-subject requirement, the text of the measure must relate to more than one subject and have at least two distinct and separate purposes which are not dependent upon or connected with each other. The single-subject requirement is not violated if the matters included are necessarily or properly connected to each other. In re Proposed Ballot Initiative on Parental Rights, 913 P.2d 1127 (Colo. 1996).

In order to pass constitutional muster, a proposed initiative must concern only one subject. In other words, it must effectuate or carry out only one general object or purpose. In re Ballot Title 2005-2006 No. 73, 135 P.3d 736 (Colo. 2006); In re Ballot Title 2005-2006 No. 74, 136 P.3d 237 (Colo. 2006).

The single-subject requirement serves two functions: It ensures that each proposed measure depends upon its own merits for passage by preventing inclusion in one measure subjects having no necessary or proper connection for the purpose of enlisting support for the measure from separate advocates for each of the subjects, and it prevents fraud and surprise from being practiced upon voters through the inadvertent passage of a surreptitious provision coiled up in the folds of a complex measure. Title, Ballot Title & Sub. Clause for 2015-2016 No. 132, 2016 CO 55, 374 P.3d 460.

First, it is intended to forbid the treatment of incongruous subjects in the same measure, especially the practice of putting in one measure subjects having no necessary or proper connection, for the purpose of enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their merits. Second, the single-subject requirement seeks to prevent surreptitious measures and apprise the people of the subject of each measure by the title, that is, to prevent surprise and fraud from being practiced

upon voters. In re Ballot Title 2019-2020 No. 3, 2019 CO 57, 442 P.3d 867.

The intent of the requirement that an initiative be limited to a single subject is to ensure that each proposal depends on its own merits for passage. Matter of Proposed Initiative 1996-17, 920 P.2d 798 (Colo. 1996); Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Subsection (1)(a)(I) prohibits the joinder of incongruous subjects in the same petition. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

The intent of the single-subject requirement is to prevent voters from being confused or misled and to ensure that each proposal is considered on its own merits. Matter of Ballot Title 1997-98 No. 74, 962 P.2d 927 (Colo. 1998).

The single-subject requirement must be liberally construed so as not to impose undue restrictions on the initiative process. Matter of Ballot Title 1997-98 No. 74, 962 P.2d 927 (Colo. 1998).

The single-subject requirement is not violated simply because an initiative with a single, distinct purpose spells out details relating to its implementation. As long as the procedures specified have a necessary and proper relationship to the substance of the initiative, they are not a separate subject. Matter of Ballot Title 1997-98 No. 74, 962 P.2d 927 (Colo. 1998); In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

A proposed measure that tends to effect or to carry out one general purpose presents only one subject. Consequently, minor provisions necessary to effectuate the purpose of the measure are properly included within its text. In re Ballot Title 1999-2000 No. 256, 12 P.3d 246 (Colo. 2000); Title, Ballot Title & Sub. Clause for 2015-2016 No. 132, 2016 CO 55, 374 P.3d 460.

Just because a proposal may have different effects or that it makes policy choices that are not invariably interconnected does not mean that it necessarily violates the single-subject requirement. It is enough that the provisions of a proposal are connected. Here, the initiative addresses numerous issues in a detailed manner. However, all of these issues relate to the management of development. In re Ballot Title 1999-2000 No. 256, 12 P.3d 246 (Colo. 2000).

To evaluate whether or not an initiative effectuates or carries out only one general object or purpose, supreme court looks to the text of the proposed initiative. The single-subject requirement is not violated if the "matters encompassed are necessarily or properly connected to each other rather than disconnected or incongruous". Stated another way, the single-subject requirement is not violated unless the text of the measure "relates to more than one subject and has at least two distinct and separate purposes that are not dependent upon or connected with each other". Mere implementation or enforcement details directly tied to the initiative's single subject will not, in and of themselves, constitute a separate subject. Finally, in order to pass the single-subject test, subject of the initiative should also be

capable of being expressed in the initiative's title. In re Ballot Title 2005-2006 No. 73, 135 P.3d 736 (Colo. 2006); In re Ballot Title 2005-2006 No. 74, 136 P.3d 237 (Colo. 2006).

Subjecting proposed initiative to a limitation imposed by the U.S. constitution, as interpreted by the U.S. supreme court, does not violate single-subject requirement. All state statutory and constitutional measures are subject to implicit limitation that the U.S. constitution, as interpreted by the U.S. supreme court, may require otherwise; a finding that such limitation violates the single-subject requirement would result in no measure satisfying the single-subject requirement. In re Ballot Title 2007-2008 No. 61, 184 P.3d 747 (Colo. 2008).

Likewise, provision allowing state to act in accordance with the U.S. constitution, as interpreted by U.S. supreme court, does not violate single-subject requirement. In re Ballot Title 2007-2008 No. 61, 184 P.3d 747 (Colo. 2008).

Measure is not deceptive or surreptitious merely because its content depends on the U.S. constitution, as interpreted by the U.S. supreme court. In re Ballot Title 2007-2008 No. 61, 184 P.3d 747 (Colo. 2008).

The fact that provisions of measure may affect more than one statutory provision does not itself mean that measure contains multiple subjects. Where initiative requiring background checks at gun shows also authorizes licensed gun dealers who conduct such background checks to charge a fee, the initiative contains a single subject. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

Single-subject requirement eliminates the practice of combining several unrelated subjects in a single measure for the purpose of enlisting support from advocates of each subject and thus securing the enactment of measures that might not otherwise be approved by voters on the basis of the merits of those discrete measures. In re Petitions, 907 P.2d 586 (Colo. 1995); In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996).

A proposed measure impermissibly includes more than one subject if its text relates to more than one subject and if the measure has at least two distinct and separate purposes that are not dependent upon or connected with each other. In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996); In re Ballot Title 1999-2000 No. 235(a), 3 P.3d 1219 (Colo. 2000).

Grouping the provisions of a proposed initiative under a broad concept that potentially misleads voters will not satisfy the single-subject requirement. In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996); In re Ballot Title 1999-2000 Nos. 245(b), 245(c), 245(d), and 245(e), 1 P.3d 720 (Colo. 2000); In re Ballot Title 1999-2000 Nos. 245(f) and 245(g), 1 P.3d 739 (Colo. 2000).

Neither this section nor §1(5.5) of article V of the state constitution creates any exemptions for initiatives that attempt to repeal constitutional provisions. Also, no special permission

exists for initiatives that seek to address constitutional provisions adopted prior to the enactment of the single-subject requirement. In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996).

The term "measure" includes initiatives that either enact or repeal. In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996).

No exception to single-subject requirement for repeal measures. In ruling that an initiative to repeal the Taxpayer's Bill of Rights (TABOR) in full satisfies the single-subject requirement, the supreme court is not adopting an exception to the single-subject rule for repeal measures. In re Ballot Title 2019-2020 No. 3, 2019 CO 57, 442 P.3d 867.

In cases of repeal, the underlying constitutional provision to be repealed must be examined in order to determine whether the repealing and reenacting initiative contains a single subject. If a provision contains multiple subjects and an initiative proposes to repeal the entire underlying provision, then the initiative contains multiple subjects. On the other hand, if an initiative proposes anything less than a total repeal, it may satisfy the single-subject requirement. In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996), disapproved in In re Ballot Title 2019-2020 No. 3, 2019 CO 57, 442 P.3d 867.

The single-subject requirement does not apply to municipal initiatives. Bruce v. City of Colo. Springs, 200 P.3d 1140 (Colo. App. 2008).

Title-setting board has no duty to advise proponents concerning possible solutions to a single-subject violation. Comment by the board is within its sound discretion; requiring comment would unconstitutionally expand the board's authority and shift initiative-drafting responsibility from proponents to the board. In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996).

If the title-setting board rejects an initiative for violating the single-subject requirement, then proponents may pursue one of two courses of action. They may either (1) commence a new review and comment process, or (2) present a revised title to the board. In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996).

Single-subject requirement for ballot initiatives met where provisions in initiative make reference to the initiative's subject and the provisions are sufficiently connected to the subject. Matter of Title, Ballot Title, 917 P.2d 292 (Colo. 1996).

An election provision in a measure does not constitute a separate subject if there is a sufficient connection between the provision and the subject of the initiative. In re Ballot Title 1999-2000 No. 235(a), 3 P.3d 1219 (Colo. 2000).

Title board is vested with considerable discretion in setting the title, ballot title and submission clause, and summary. In reviewing actions of the title board, court must liberally construe the single-subject and title requirements for initiatives. Matter of Title, Ballot Title, 917 P.2d 292 (Colo.

1996); Matter of Title, Ballot Title, Sub. Clause, 917 P.2d 1277 (Colo. 1996).

Proposed initiative contains only one subject. Although initiative is comprehensive, all of its numerous provisions relate to the single subject of reforming petition rights and procedures. Matter of Petition for Amend. to Const., 907 P.2d 586 (Colo. 1995).

Proposed initiative that applies a $60 tax credit contains only one subject, even though it applies the credit to more than one tax and requires the state to replace monthly local government revenues lost because of the tax credit. Matter of Proposed Petition for an Amendment to the Constitution Adding Paragraph (d) Section (8) of Section 20 of Article X (Amend TABOR No. 32), 908 P.2d 125 (Colo. 1995).

The texts of the initiatives encompass the single subject of gaming activities conducted by nonprofit organizations. The initiatives detail what games of chance may be conducted, who may conduct such games, and how such games may be conducted. In re Proposed Init. Bingo-Raffle Lic. (I), 915 P.2d 1320 (Colo. 1996).

Proposed initiative did not violate the single-subject requirement where "the public's interest in state waters" was sufficiently narrow and connected with both a "public trust doctrine" and the assignment of water use rights to the public or a watercourse. Matter of Title, Ballot Title, Sub. Clause, 917 P.2d 1277 (Colo. 1996).

Proposed initiative did not contain more than one subject merely because it provided for alternative ways to accomplish the same result. The alternate ways were related to and connected with each other and plainly did not violate the single-subject requirement. Matter of Proposed Initiative 1996-17, 920 P.2d 798 (Colo. 1996).

Initiative that assessed fees for water pumped from beneath trust lands and then allocated the pumping fees for school finance was not considered two subjects by the court because the theme of the purpose of state trust lands and the educational recipient provide a unifying thread. Matter of Title, Ballot Title for 1997-98 No. 105, 961 P.2d 1092 (Colo. 1998).

Proposed initiative concerning uniform application of laws to livestock operations was upheld without opinion against challenges on basis of single-subject requirement and on other grounds. Matter of Proposed Initiative 1997-98 No. 112, 962 P.2d 255 (Colo. 1998).

Measure to recognize marriage between a man and a woman as valid does not contravene the single subject requirement of this section. In re Ballot Title 1999-2000 Nos. 227 and 228, 3 P.3d 1 (Colo. 2000).

Proposed initiative that employs a growth formula limiting the rate of future development, delineates a system of measurement to determine the "base developed" area of each jurisdiction, allows for alternative treatment of commenced but not completed projects, excludes low-income housing, public parks and open space, and historic landmarks, and establishes a procedure for exemptions does not violate the constitutional prohibition against single subjects. In re Ballot Title

1999-2000 No. 235(a), 3 P.3d 1219 (Colo. 2000).

Proposed initiative to amend the state constitution to give every county or municipality the right to limit housing growth by initiative and referendum subject to specified petition signature requirements, cap annual housing growth in ten specified counties at one percent per year for two years, and temporarily prohibit the issuance of building permits for new privately owned residential housing units in the same ten counties has a single subject of limiting housing growth in the state. In the Matter of the Title, Ballot Title & Sub. Clause for 2017-2018 No. 4, 2017 CO 57, 395 P.3d 318.

Proposed initiative that prohibits school districts from requiring schools to provide bilingual education programs while allowing parents to transfer children from an English immersion program to a bilingual program does not contain more than one subject. In re Ballot Title 1999-2000 No. 258(A), 4 P.3d 1094 (Colo. 2000).

Enforcement provision under which election will be declared void and revenues collected pursuant to election will be refunded is directly tied to initiative's purpose of eliminating pay-to-play contributions and, therefore, is not a separate subject. Clause in question should be interpreted as nothing more than an enforcement or implementation clause that does nothing more than incorporate inherent right of taxpayers to challenge tax, spending, or bond measures when they have standing to do so. Thus, enforcement provision is not a separate subject but rather is tied directly to initiative's single subject. In re Ballot Title 2005-2006 No. 73, 135 P.3d 736 (Colo. 2006).

Proposed initiative that creates a new legal regime, the Colorado public trust doctrine, to govern the public's rights in waters of natural streams contains a single subject. The proposed initiative does not contain an array of disconnected subjects joined together to garner support from various factions and does not contain surreptitious provisions that will surprise voters. In re Ballot Title 2011-2012 No. 3, 2012 CO 25, 274 P.3d 562.

Proposed initiative that modifies only the existing rights and interests in water between private individuals and the public is a cohesive proposal to create a new water regime and contains a single subject of public control of waters. Its provisions are necessarily and properly connected to each other because they define the purpose of the initiative, describe the broadened scope of the public's control over the state's water resources, and outline how to implement and enforce a new dominant public water estate. In re Ballot Title 2011-2012 No. 45, 2012 CO 26, 274 P.3d 576.

Proposed initiative that requires a statewide setback for new oil and gas development in this state and establishes that the statewide setback requirement is not a taking of private property under the state constitution contains a single subject. The "not a taking" provision applies only to the statewide setback requirement that would be established and is, therefore, properly connected to the requirement. In re Ballot

Title 2013-2014 Nos. 85, 86, 87, 2014 CO 62, 328 P.3d 136.

Proposed initiative that defines "fee" for purposes of all Colorado constitutional provisions, laws, administrative rules, directives, and public legal documents as "a voluntarily incurred government charge in exchange for a specific benefit conferred on the taxpayer, which fee should reasonably approximate the payer's fair share of the costs incurred by the government in providing said specific benefit", contains a single subject. In re Ballot Title 2013-2014 No. 129, 2014 CO 53, 333 P.3d 101.

Proposed initiative that establishes a fundamental right to a healthy environment contains a single subject. Provisions that broadly define the term "local government" require the state and local governments to assign protection of a healthy environment the highest priority, provide that when a state law and a local law address the same topic the law that is more protective of a healthy environment governs, and create a cause of action for enforcement are directly tied to and implement the central focus of the initiative. In the Matter of the Title, Ballot Title & Sub. Clause for 2015-2016 No. 63, 2016 CO 34, 370 P.3d 628.

One-sentence initiative to repeal in full the Taxpayer's Bill of Rights (TABOR) meets all of the requirements of a single subject and, on its face, reflects a single subject. While TABOR itself is arguably a multi-subject provision, statements in prior state supreme court cases that an initiative that repeals a multi-subject constitutional provision includes multiple subjects were dicta and are not binding precedent. In re Ballot Title 2019-2020 No. 3, 2019 CO 57, 442 P.3d 867 (disapproving In re Proposed Initiative 1996-4, 916 P.2d 528 (Colo. 1996); Matter of Title, Ballot Title, & Sub. Cl., and Summary for 1999-2000 No. 104, 987 P.2d 249 (Colo. 1999); and In re Ballot Title 2013-14 No. 76, 2014 CO 52, 333 P.3d 76).

Proposed initiative that creates a new preschool program and funds the program by establishing a new sales tax on tobacco-derived nicotine vapor products and reallocating to the program a portion of existing state cigarette and tobacco product tax revenue, including cigarette tax revenue made newly available by withholding distributions of such revenue that would otherwise be made from any municipality that bans tobacco and nicotine products in any form, has a single subject of creating and administering a Colorado preschool program funded by state taxes on nicotine and tobacco products. In re Title, Ballot Title & Submission Clause for 2019-2020 #315, 2020 CO 61, 500 P.3d 363.

Proposed initiative contains more than one subject. Citizen initiative that retroactively creates substantive fundamental rights in charter and constitutional amendments approved after 1990, requires the word "shall" in such amendments be mandatory regardless of the context, establishes standards for judicial review of filed petitions, provides that challenges to petitions can be upheld only if beyond a reasonable doubt by a unanimous supreme court, and contains other substantive and procedural provisions relating to recall, referendum, and initiative

petitions contains more than one subject. Amendment to Const. Section 2 to Art. VII, 900 P.2d 104 (Colo. 1995).

Proposed initiative that establishes a tax credit and sets forth procedural requirements for future ballot titles contains more than one subject. Matter of Title, Ballot Title & Sub. Cl., 900 P.2d 121 (Colo. 1995).

Initiative that contains both tax cuts and mandatory reductions in state spending on state programs violates the single subject requirement. Matter of Title, Ballot Title for 1997-98 No. 88, 961 P.2d 1106 (Colo. 1998).

Proposed initiative contains two distinct subjects — the sale of wine in grocery stores and the home delivery of all alcohol by third-party delivery services — that are not necessarily and properly connected. The mere fact that both topics involve the regulation of alcohol is not enough. In re Ballot Titles for 2021-22 Nos. 67, 115, & 128, 2022 CO 37, 526 P.3d 927.

Proposed initiative that repealed the constitutional requirement that each judicial district have a minimum of one district court judge; deprived the city and county of Denver of control over Denver county court judgeships; immunized from liability persons who criticize a judicial officer regarding his or her qualifications; and altered the composition and powers of the commission on judicial discipline contains more than one subject. Matter of Title, Ballot Title for 1997-98 No. 64, 960 P.2d 1192 (Colo. 1998); Matter of Title, Ballot Title for 1997-98 No. 95, 960 P.2d 1204 (Colo. 1998).

Proposed initiative that also proposed to make all municipal court judges subject to its term of office and retention provisions and expanded the jurisdiction of the commission on judicial discipline to include municipal court judges contains more than one subject. Matter of Title, Ballot Title for 1997-98 No. 95, 960 P.2d 1204 (Colo. 1998).

Proposed initiative that creates a tax cut, imposes new criteria for voter approval of tax, spending, and debt increases, and imposes likely reductions in state spending on state programs contains at least three subjects. Matter of Title, Ballot Title & Sub. Cl., & Summary for 1999-2000 No. 37, 977 P.2d 845 (Colo. 1999).

Proposed initiative that creates a tax cut and imposes new criteria for voter approval of tax, spending, and debt increases contains multiple subjects. Matter of Title, Ballot Title & Sub. Cl., & Summary for 1999-2000 No. 38, 977 P.2d 849 (Colo. 1999).

Proposed initiative has more than single subject and, therefore, is unconstitutional. Initiative presents multiple subjects: (1) Time limits for tax measures; (2) time limits for public debt authorizations; and (3) time limits for voter-authorized relief from spending limits. While voters may well be receptive to a broadly applicable 10-year limitation upon the duration of any tax increases, they may not realize that they will be simultaneously limiting their ability to incur multiple-fiscal year district debt obligation to fund public projects. Voters would also be limiting prospectively the duration of all future ballot issues designed to provide relief from TABOR's wholly

independent spending caps. Voters are entitled to have each of these separate subjects considered upon its own merits. In re Ballot Title 2005-2006 No. 74, 136 P.3d 237 (Colo. 2006).

Initiative that proposed the creation of a new Colorado department of environmental conservation and the creation of a mandatory public trust standard that would have required the department to resolve conflicts between economic interest and public ownership and public conservation values in lands, waters, public resources, and wildlife in favor of public ownerships and public values contained multiple subjects. In re Ballot Title 2007-2008 No. 17, 172 P.3d 871 (Colo. 2007).

Initiative that comprehensively revamps constitutional recall provisions and allows recall of non-elected state and local officers contains more than one subject. In re Ballot Title 2013-2014 No. 76, 2014 CO 52, 333 P.3d 76.

Initiative contains multiple subjects when its central theme is incorporating livestock into the animal cruelty statutes but it also includes a provision that redefines "sexual act with an animal" in a way that addresses the bodily integrity of all animals, not just livestock. In re Title, Ballot Title & Submission Clause for 2021-2022 No. 16, 2021 CO 55, 489 P.3d 1217.

Two proposed initiatives intended to modify the process for redistricting state legislative districts contained multiple subjects. While the provisions of the proposed initiatives collectively constituted a single subject that would change the criteria to be used in drawing legislative districts; restructure the Colorado reapportionment commission; subject the restructured commission to open meetings and open records laws; require a two-thirds vote for commission action; modify the process for drafting, approval, and judicial review of redistricting plans; and allow the commission to adopt rules to govern its administration and operation, both initiatives also included a second subject of significantly changing the mission and role of the supreme court nominating commission by requiring it to recommend unaffiliated or minor party members to serve on the restructured reapportionment commission. In addition, one of the proposed initiatives also included a third subject of transferring the power to redistrict the state's congressional districts from the general assembly to a newly created redistricting commission. Title, Ballot Title & Sub. Clause for 2015-2016 No. 132, 2016 CO 55, 374 P.3d 460.

1-40-107. Rehearing - appeal - fees - signing.

(1) (a) (I) Any person presenting an initiative petition or any registered elector who is not satisfied with a decision of the title board with respect to whether a petition contains more than a single subject pursuant to section 1-40-106.5, or who is not satisfied with the title and submission clause provided by the title board and who claims that they are unfair or that they do

not fairly express the true meaning and intent of the proposed state law or constitutional amendment may file a motion for a rehearing with the secretary of state no later than 5 p.m. on the seventh day after the decision is made or the title and submission clause are set.

(II) The designated representatives of the proponents or any registered elector who is not satisfied with the fiscal summary prepared by the director of research of the legislative council of the general assembly in accordance with section 1-40-105.5 may file a motion for a rehearing with the secretary of state within seven days after the titles and submission clause for the initiative petition are set on the grounds that:

(A) (Deleted by amendment, L. 2020.)

(B) The fiscal summary is misleading or prejudicial; or

(C) The fiscal summary does not comply with the requirements set forth in section 1-40-105.5 (1.5).

(III) The designated representatives of the proponents or any registered elector who is not satisfied with the determination by the title board made pursuant to section 1-40-106 (3.5) with respect to whether a petition that proposes a constitutional amendment only repeals in whole or in part a provision of the state constitution may file a motion for a rehearing with the secretary of state within seven days after the titles and submission clause for the initiative petition are set on the grounds that the determination is incorrect.

(b) A motion for rehearing must be typewritten and set forth with particularity the grounds for rehearing. If the motion claims that the petition contains more than a single subject, then the motion must, at a minimum, include a short and plain statement of the reasons for the claim. If the motion claims that the title and submission clause set by the title board are unfair or that they do not fairly express the true meaning and intent of the proposed state law or constitutional amendment, then the motion must identify the specific wording that is challenged. If the motion claims that the fiscal summary is misleading or prejudicial or does not comply with the statutory requirements, the motion must specifically identify the specific wording that is challenged or the requirement at issue. The title board may modify the fiscal summary based on information presented at the rehearing. If the motion claims that the determination of whether the petition that proposes a constitutional amendment only repeals in whole or in part a constitutional provision is incorrect, the motion must include a short and plain statement of the reasons for the claim.

(c) (I) (A) Except as provided in subsections (1)(c)(I)(B) and (1)(c)(I)(C) of this section, the title board shall hear a motion for rehearing at the next regularly scheduled meeting of the title board.

(B) If the title board is unable to complete action on all motions for rehearing scheduled at the title board's next regularly scheduled meeting, the title board may continue consideration of any motion for rehearing to the next available day.

(C) If the title board decision was made at or the title and submission clause protested were set at the meeting on the third Wednesday in April in the year in which the measure will be voted on, the title board shall hear the motion within forty-eight hours after the expiration of the seven-day period for filing a motion for rehearing.

(II) The decision of the title board on any motion for rehearing shall be final, except as provided in subsection (2) of this section, and no further motion for rehearing may be filed or considered by the title board.

(2) If any person presenting or the designated representatives of the proponents of an initiative petition for which a motion for a rehearing is filed, any registered elector who filed a motion for a rehearing pursuant to subsection (1) of this section, or any other registered elector who appeared before the title board in support of or in opposition to a motion for rehearing is not satisfied with the ruling of the title board upon the motion, then the secretary of state shall furnish such person, upon request, a certified copy of the petition with the titles and submission clause of the proposed law or constitutional amendment, the fiscal summary, or the determination whether the petition repeals in whole or in part a constitutional provision, together with a certified copy of the motion for rehearing and of the ruling thereon. If filed with the clerk of the supreme court within seven days thereafter, the matter shall be disposed of promptly, consistent with the rights of the parties, either affirming the action of the title board or reversing it, in which latter case the court shall remand it with instructions, pointing out where the title board is in error.

(3) The secretary of state shall be allowed a fee which shall be determined and collected pursuant to section 24-21-104 (3), C.R.S., for certifying a record of any proceedings before the title board. The clerk of the supreme court shall receive one-half the ordinary docket fee for docketing any such cause, all of which shall be paid by the parties desiring a review of such proceedings.

(4) No petition for any initiative measure shall be circulated nor any signature thereto have any force or effect which has been signed before the titles and submission clause have been fixed and determined as provided in section 1-40-106 and this section, or before the fiscal summary has been fixed and determined as provided in section 1-40-105.5 and this section.

(5) In the event a motion for rehearing is filed in accordance with this section, the period for filing a petition in accordance with section 1-40-108 shall not begin until a final decision concerning the motion is rendered by the title board or the Colorado supreme court; except that under no circumstances shall the period for filing a petition be extended beyond three months and three weeks prior to the election at which the petition is to be voted upon.

(5.5) If the title board modifies the fiscal summary pursuant to this section, the secretary of state shall provide the director of research of the legislative council of the general assembly with

a copy of the amended fiscal summary, and the director shall post the new version of the fiscal summary on the legislative council website.

(6) (Deleted by amendment, L. 2000, p. 1622, § 5, effective August 2, 2000.)

(7) (Deleted by amendment, L. 95, p. 432, § 5, effective May 8, 1995.)

Source: L. 93: Entire article amended with relocations, p. 680, § 1, effective May 4. **L. 95:** (1) and (7) amended, p. 432, § 5, effective May 8. **L. 98:** (2) amended, p. 635, § 9, effective May 6. **L. 2000:** (1), (2), (4), and (6) amended, pp. 1621, 1622, §§ 2, 5, effective August 2; (6) amended, p. 297, § 1, effective August 2. **L. 2004:** (1) amended, p. 756, § 2, effective May 12. **L. 2009:** (1) and (5) amended, (HB 09-1326), ch. 258, p. 1171, § 5, effective July 1. **L. 2012:** (1) and (2) amended, (HB 12-1313), ch. 141, p. 511, § 2, effective April 26; (2) amended, (SB 12-175), ch. 208, p. 896, § 172, effective July 1. **L. 2015:** (1)(a), (1)(b), (2), and (4) amended and (5.5) added, (HB 15-1057), ch. 198, p. 677, § 4, effective March 26, 2016. **L. 2017:** (1)(a)(III) added and (1)(b) and (2) amended, (SB 17-152), ch. 169, p. 616, § 2, effective August 9. **L. 2020:** (1)(a)(II), (1)(b), (2), (4), and (5.5) amended, (HB 20-1416), ch. 232, p. 1124, § 3, effective November 1. **L. 2025:** (1)(a)(I) and (1)(c) amended, (HB 25-1327), ch. 446, p. 2564, § 4, effective June 4.

Editor's note: This section is similar to provisions of several former sections as they existed prior to 1993, and the former § 1-40-107 was relocated to § 1-40-113. For a detailed comparison, see the comparative tables located in the back of the index.

Cross references: For the general assembly, powers, and initiative and referendum reserved to the people, see also § 1 of art. V, Colo. Const.; for recall from office, see art. XXI, Colo. Const.

ANNOTATION

Law reviews. For article, "Popular Law-Making in Colorado", see 26 Rocky Mt. L. Rev. 439 (1954).

Annotator's note. (1) The following annotations include cases decided under former provisions similar to this section.

(2) On rehearing by the title-setting board or review by the supreme court under this section, many of the same concerns will be relevant as are relevant to the initial setting of titles under § 1-40-106. To avoid excessive duplication, most of the annotations to cases construing § 1-40-106 are not repeated here. Please see the annotations under § 1-40-106 for additional cases concerning the sufficiency of titles, and the authority and powers of the title-setting board, and the compliance of the

title-setting board with statutory requirements.

(3) For additional cases concerning the initiative and referendum power, see the annotations under § 1 of article V of the state constitution.

Subsection (1) allows an objector to bring only one motion for rehearing to challenge the titles set by the title board. The title board properly denied an objector's second motion for rehearing based on lack of jurisdiction. In re Ballot Title 1999-2000 No. 219, 999 P.2d 819 (Colo. 2000).

The title board lacks jurisdiction to consider a motion for a second rehearing on a proposed initiative. No matter what the decision of the title board at a rehearing is, the only recourse available to a person who objects to the decision is to petition the supreme court for review of the decision. In re Ballot Title 2019-2020 #74, 2020 CO 5, 455 P.3d 759.

A court lacks jurisdiction to hear an appeal when petitioner failed to file a motion for rehearing on grounds permitted under subsection (1). Subsection (1) establishes limited grounds for a motion for rehearing a title board decision and forms the basis for an appeal to the court, and, if a motion for rehearing is not made on grounds specified in subsection (1), the court lacks jurisdiction under subsection (2) to hear an appeal of the title board's ruling on the motion for rehearing. Chilson v. Bertolacci, 2024 CO 53, 550 P.3d 718.

This section provides a special statutory process that overrides claim preclusion or law of the case principles. Consequently, the title board and the supreme court must review an initiative challenged under this section even if its language is identical to the language of a previous initiative. In re Ballot Title 2005-2006 No. 55, 138 P.3d 273 (Colo. 2006).

In a proceeding under this statute: (1) the supreme court must not in any way concern itself with the merit or lack of merit of the proposed amendment since, under our system of government, that resolution rests with the electorate; (2) all legitimate presumptions must be indulged in favor of the propriety of the board's action; and (3) only in a clear case should a title prepared by the board be held invalid. Bauch v. Anderson, 178 Colo. 308, 497 P.2d 698 (1972); In re An Initiated Constitutional Amendment, 199 Colo. 409, 609 P.2d 631 (1980); In re Title Pertaining to Sale of Table Wine in Grocery Stores, 646 P.2d 916 (Colo. 1982); Spelts v. Klausing, 649 P.2d 303 (Colo. 1982); In re Proposed Initiated Constitutional Amendment, 682 P.2d 480 (Colo. 1984); In re Proposed Initiative Concerning State Personnel Sys., 691 P.2d 1121 (Colo. 1984); In re Proposed Initiative Concerning Drinking Age, 691 P.2d 1127 (Colo. 1984); In re Proposed Initiative on Parental Notification of Abortions for Minors, 794 P.2d 238 (Colo. 1990).

In reviewing the board's title-setting process, the court does not address the merits of the proposed initiative and should not interpret the meaning of proposed language or suggest how it will be applied if adopted by the electorate; should resolve all

legitimate presumptions in favor of the board; will not interfere with the board's choice of language if the language is not clearly misleading; and must ensure that the title, ballot title, submission clause, and summary fairly reflect the proposed initiative so that petition signers and voters will not be misled into support for or against a proposition by reason of the words employed by the board. In re Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the Town of Burlington, 830 P.2d 1023 (Colo. 1992); Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993); In re Proposed Initiative Concerning "Automobile Insurance Coverage", 877 P.2d 853 (Colo. 1994).

Court will not address the merits of proposed initiatives nor interpret the meaning of proposed language. It is beyond the scope of the court's review to interpret or construe the language of a proposed initiative. In re Proposed Ballot Initiative on Parental Rights, 913 P.2d 1127 (Colo. 1996).

So long as the language chosen by the board fairly summarizes the intent and meaning of the proposed amendment, without arguing for or against its adoption, it is sufficient. In re Proposed Ballot Initiative on Parental Rights, 913 P.2d 1127 (Colo. 1996).

The board is not required to state the effect that an initiative may have on other constitutional provisions and the initiative summary is not intended to fully educate people on all aspects of the proposed law. In re Proposed Ballot Initiative on Parental Rights, 913 P.2d 1127 (Colo. 1996).

Court will not rewrite the titles or submission clause for the title board. Also, the court will reverse the title board's action in preparing the title or submission clause only if they contain a material and significant omission, misstatement, or misrepresentation. Matter of Title, Ballot Title for 1997-98 No. 62, 961 P.2d 1077 (Colo. 1998).

And the mere fact that, after an appeal has been taken and a court has had the benefit of the additional labor bestowed upon the ballot title by counsel, a court may be able to write a better ballot title than the one prepared by an attorney general constitutes no reason for discarding his title. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958).

Because the purpose of an appeal is not to secure for the bill the best possible ballot title, but to eliminate one that is insufficient or unfair, if it should develop that the one submitted by an attorney general is of that kind. Say v. Baker, 137 Colo. 155, 322 P.2d 317 (1958); In re Branch Banking Initiative, 200 Colo. 85, 612 P.2d 96 (1980); Matter of Educ. Tax Reform, 823 P.2d 1353 (Colo. 1991).

Court's function limited. It is not the function of the supreme court to rephrase the language of the summary and title in order to achieve the best possible statement of the intent of the amendment. In re Mineral Prod. Tax Initiative, 644 P.2d 20 (Colo. 1982).

Actions of the title setting review board will not be reversed just because a better title could have been adopted. Matter of Proposed Initiated Constitutional

Amendment Concerning Suits Against Nongovernmental Employers Who Knowingly and Recklessly Maintain an Unsafe Work Environment, 898 P.2d 1071 (Colo. 1995).

Review limited to whether intent of initiative properly reflected. On review, the supreme court can only consider whether the titles, summary, and submission clause reflect the intent of the initiative, not whether they reflect all possible problems that may arise in the future in applying the language of the proposed initiative. In re Proposed Initiative on Transf. of Real Estate, 200 Colo. 40, 611 P.2d 981 (1980); In re Title Pertaining to Sale of Table Wine in Grocery Stores, 646 P.2d 916 (Colo. 1982); Spelts v. Klausing, 649 P.2d 303 (Colo. 1982); In re Proposed Initiative on Confidentiality of Adoption Records, 832 P.2d 229 (Colo. 1992); In re Proposed Initiative on Sch. Pilot Program, 874 P.2d 1066 (Colo. 1994); Matter of Proposed Initiative 1997-98 No. 10, 943 P.2d 897 (Colo. 1997).

And interpretation of initiative not permitted. It is not the function of the supreme court in the review proceeding, nor is it the board's function, to determine the meaning of the language of the initiative: A judicial interpretation of the meaning of the initiative must await an adjudication in a specific factual context. Spelts v. Klausing, 649 P.2d 303 (Colo. 1982); In re Proposed Initiative on Parental Notification of Abortions for Minors, 794 P.2d 238 (Colo. 1990).

Court will not rewrite the titles or submission clause for the title board. Also, the court will reverse the title board's action in preparing the title or submission clause only if they contain a material and significant omission, misstatement, or misrepresentation. Matter of Title, Ballot Title for 1997-98 No. 62, 961 P.2d 1077 (Colo. 1998).

Title language employed by the title board will be rejected only if it is misleading, inaccurate or fails to reflect the central features of the proposed measure. In re Ballot Title 1999-2000 No. 215 (Prohibiting Certain Open Pit Mining), 3 P.3d 11 (Colo. 2000).

Title, ballot title, and submission clause of an initiative measure were not unfair or misleading where a term was not defined that would have required detailed statutory explanation. The board's omission of a definition in its title and summary is not an abuse of discretion where the definition is complex and would be impossible to define within the title and summary of the initiative without a detailed statutory explanation, even though the term is obscure and not within the common knowledge of most voters. Matter of Title, Ballot Title for 1997-98 No. 75, 960 P.2d 672 (Colo. 1998).

Title set by the title board was misleading and inaccurate and would be modified where the intent of the proposed measure was to prohibit the modification of certain mining permits to allow the expansion of mining operations but the title could be construed as prohibiting the expansion of mining operations under an existing, unmodified mining permit. In re Ballot Title 1999-2000 No. 215 (Prohibiting

Certain Open Pit Mining), 3 P.3d 11 (Colo. 2000).

Issues of whether initiative violated article X, section 20, of the Colorado Constitution are premature and the court will not address them since that determination would necessarily require the court to interpret its language or predict its application if adopted by the electorate. Matter of Proposed Initiative 1997-98 No. 10, 943 P.2d 897 (Colo. 1997).

Although this section provides for supreme court review of citizen initiatives before they are submitted to the general electorate, it does not confer jurisdiction on the supreme court to review the constitutionality of legislative referenda prior to enactment. Thus, the supreme court lacked jurisdiction to review a legislative referendum for compliance with the single-subject requirement prior to enactment of the referendum. Polhill v. Buckley, 923 P.2d 119 (Colo. 1996).

Judicial determination of retroactive application of proposed amendment. If a controversy arises in a specific factual context, then judicial determination of retroactive application may be appropriate, but it is not relevant to the determination of the accuracy of the language of the titles, summary, and submission clause of a proposed amendment. In re Proposed Initiative on Transf. of Real Estate, 200 Colo. 40, 611 P.2d 981 (1980); In re Proposed Initiative on Confidentiality of Adoption Records, 832 P.2d 229 (Colo. 1992).

Where a proposed amendment uses the term "strong public trust doctrine" but does not define it, such a definition must await future judicial construction and cannot appropriately be included in the title or submission clause. In re Proposed Initiative on Water Rights, 877 P.2d 321 (Colo. 1994).

The board is not required to state the effect that an initiative may have on other constitutional provisions, and the court may not address the potential constitutional interpretation implications of the initiative in the court's review. In re Proposed Initiative on Water Rights, 877 P.2d 321 (Colo. 1994).

As a general rule, court will reject the board's actions only where the language it has adopted is so inaccurate as to clearly mislead the electorate. In re Petition on Campaign & Political Fin., 877 P.2d 311 (Colo. 1994).

Burden for invalidating an amendment because of an alleged misleading ballot title, after adoption by the people in a general election, is heavy since the general assembly has provided procedures for challenging a ballot title prior to elections. Unless the challengers to the amendment can prove that so many voters were actually misled by the title that the result of the election might have been different, the challenge will fail. City of Glendale v. Buchanan, 195 Colo. 267, 578 P.2d 221 (1978).

In considering whether the title, ballot title and submission clause, and summary accurately reflect the intent of the proposed initiative, it is appropriate to consider the testimony of the proponent

concerning the intent of the proposed initiative that was offered at the public meeting at which the title, ballot title and submission clause, and summary were set. In re Proposed Initiated Constitutional Amendment Concerning Unsafe Workplace Env't, 830 P.2d 1031 (Colo. 1992).

Once petitioners file their petitions for review with the supreme court pursuant to subsection (2), the board loses jurisdiction to make substantive changes to the titles and summary. The board properly refused to consider a motion for rehearing filed by one opponent that raised substantive issues when the other opponents had already filed petitions for review with the supreme court; any action by the board to make substantive changes to the summary after the matter was before the supreme court on review would impermissibly intrude on the court's jurisdiction over the case. In re Ballot Title 1999-2000 No. 255, 4 P.3d 485 (Colo. 2000).

The time for filing an appeal of a title board decision is calculated from the date of the title board decision. While the time for filing an appeal changed from five days to seven days, the change in length of time does not alter court's prior decision that an appeal must be filed within seven days after the title board's decision, not within seven days after the date on which the secretary of state provides the certified record. Goodall v. Gentry-Cunningham, 2024 CO 52, 550 P.3d 711.

The time for filing an appeal to a decision of the title board is five days after the board denies the motion for rehearing and not five days from the date the secretary of state certifies the documents requested for appeal. Five days from the board's denial of a motion for rehearing is final action by the board regardless of whether an appeal is filed. Matter of Title, Ballot Title for 1997-98 No. 62, 961 P.2d 1077 (Colo. 1998).

For a timely appeal, it must be filed within five days from the board's denial of a motion for rehearing and must be construed with C.A.R. 26, thus clarifying the computation of five days to exclude Saturday and Sunday. Matter of Title, Ballot Title for 1997-98 No. 62, 961 P.2d 1077 (Colo. 1998).

Initiative proponents may circulate petitions for signatures after the title board has taken its final action in regard to the ballot titles and summary, pursuant to subsections (1) and (5), and while an appeal of that action to the supreme court is pending pursuant to subsection (2). Setting of titles and summary becomes a final title board action upon denial of a rehearing petition or upon expiration of the time for filing a rehearing petition with the title board. Armstrong v. Davidson, 10 P.3d 1278 (Colo. 2000).

Objector may not raise in a second motion for rehearing a challenge that the objector could have raised in the first motion for rehearing. Case-by-case analysis of the interests involved in setting the titles to an initiative is not required. In re Ballot Title 1999-2000 No. 215, 3 P.3d 447 (Colo. 2000).

Judicial review of abstract authorized. This section authorizes the state supreme

court to review the title board's final decision regarding a fiscal impact statement abstract prepared pursuant to § 1-40-105.5. And the court applies the same standard of review when reviewing an abstract as it applies when reviewing the title board's single-subject and clear-title findings by: (1) giving great deference to the title board; (2) drawing all legitimate presumptions in favor of the title board's decision; and (3) only overturning the board's decision in a clear case. In the Matter of the Title, Ballot Title & Sub. Clause for 2017-2018 No. 4, 2017 CO 57, 395 P.3d 318.

Applied in Matter of Proposed Initiative 1997-98 No. 86, 962 P.2d 245 (Colo. 1998); Matter of Proposed Initiative 1997-98 No. 109, 962 P.2d 252 (Colo. 1998); Matter of Proposed Initiative 1997-98 No. 112, 962 P.2d 255 (Colo. 1998).

1-40-108. Petition - time of filing.

(1) No petition for any ballot issue is of any effect unless filed with the secretary of state within six months from the date that the titles and submission clause have been fixed and determined pursuant to the provisions of sections 1-40-106 and 1-40-107 and unless filed with the secretary of state no later than three months before the election at which it is to be voted upon. A petition for a ballot issue for the election to be held in November of odd-numbered years must be filed with the secretary of state no later than three months before such odd-year election. All filings under this section must be made by the close of business on the day of filing.

(2) (Deleted by amendment, L. 95, p. 433, § 6, effective May 8, 1995.)

Source: L. 93: Entire article amended with relocations, p. 682, § 1, effective May 4; (1) amended, p. 1437, § 127, effective July 1. **L. 95:** Entire section amended, p. 433, § 6, effective May 8. **L. 2000:** (1) amended, p. 1622, § 6, effective August 2. **L. 2009:** (1) amended, (HB 09-1326), ch. 258, p. 1171, § 6, effective May 15. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1668, § 70, effective June 21.

Editor's note: This section is similar to former § 1-40-104 as it existed prior to 1993, and the former § 1-40-108 was relocated to § 1-40-115.

Cross references: For computation of time under the "Uniform Election Code of 1992", articles 1 to 13 of this title, see § 1-1-106; for computation of time under the statutes generally, see § 2-4-108.

ANNOTATION

Law reviews. For comment, "Buckley v. American Constitutional Law Foundation, Inc.: The Struggle to Establish a Consistent Standard of Review in Ballot Access Cases Continues", see 77 Den. U. L. Rev. 197 (1999).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The requirement that petitions be circulated within a six-month period is not an unreasonable burden on the rights of either the proponents of the petition or of the voting public. Am. Constitutional Law Found., Inc. v. Meyer, 870 F. Supp. 995 (D. Colo. 1994), aff'd, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

The six-month deadline set forth in subsection (1) is a reasonable, nondiscriminatory ballot access regulation; it does not offend the first and fourteenth amendments of the United States Constitution. The requirement preserves the integrity of the state's elections, maintains an orderly ballot, and limits voter confusion. The requirement advances those interests by establishing a reasonable window in which proponents must demonstrate support for their causes. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Petition for initiative may be filed or circulated anytime after previous general election. Matter of Title, Ballot Title, Etc., 850 P.2d 144 (Colo. 1993) (decided under former §1-40-104 prior to 1993 amendments).

Applied in Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

1-40-109. Signatures required - withdrawal.

(1) (a) No petition for any initiated law is of any force or effect, nor shall the proposed law be submitted to the people of the state of Colorado for adoption or rejection at the polls, as is by law provided for, unless the petition for the submission of the initiated law is signed by the number of registered electors required by section 1 (2) of article V of the state constitution.

(b) No petition for any initiated amendment to the state constitution is of any force or effect, nor shall the initiated amendment to the state constitution be submitted to the people of the state of Colorado for adoption or rejection at the polls, as is by law provided for, unless the petition for the submission of the initiated amendment to the state constitution is signed by the number of registered electors required by the state constitution who reside in each state senate district in Colorado, so long as the total number of registered electors who have signed the petition is at least the number of registered electors required by section 1 (2) of article V of the state constitution. For purposes of this subsection (1)(b), the number and boundaries of the state senate districts are those in existence, and the number of registered electors in the state senate districts

is those registered, at the time the form of the petition is approved for circulation in accordance with section 1-40-113 (1)(a).

(2) (Deleted by amendment, L. 95, p. 433, § 7, effective May 8, 1995.)

(3) Any person who is a registered elector may sign a petition for any ballot issue for which the elector is eligible to vote. A registered elector who signs a petition may withdraw his or her signature from the petition by filing a written request for such withdrawal with the secretary of state at any time on or before the day that the petition is filed with the secretary of state.

Source: L. 93: Entire article amended with relocations, p. 682, § 1, effective May 4. **L. 94:** (2) amended, p. 1180, § 73, effective July 1. **L. 95:** (2) and (3) amended, p. 433, § 7, effective May 8. **L. 2009:** (3) amended, (HB 09-1326), ch. 258, p. 1172, § 7, effective May 15. **L. 2017:** (1) amended, (SB 17-152), ch. 169, p. 617, § 3, effective August 9.

Editor's note: This section is similar to former § 1-40-105 as it existed prior to 1993, and the former § 1-40-109 was relocated. For a detailed comparison, see the comparative tables located in the back of the index.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Applied in Spelts v. Klausing, 649 P.2d 303 (Colo. 1982).

1-40-110. Warning - ballot title.

(1) At the top of each page of every initiative or referendum petition section shall be printed, in a form as prescribed by the secretary of state, the following:

WARNING:

IT IS AGAINST THE LAW:

For anyone to sign any initiative or referendum petition with any name other than his or her own or to knowingly sign his or her name more than once for the same measure or to knowingly sign a petition when not a registered elector who is eligible to vote on the measure.

DO NOT SIGN THIS PETITION UNLESS YOU ARE A REGISTERED ELECTOR AND ELIGIBLE TO VOTE ON THIS MEASURE. TO BE A REGISTERED ELECTOR, YOU MUST BE A CITIZEN OF COLORADO AND REGISTERED TO VOTE.

Before signing this petition, you are encouraged to read the text or the title of the proposed initiative or referred measure.

You are also encouraged to read the fiscal summary that is included at the beginning of this petition.

By signing this petition, you are indicating that you want this measure to be included on the ballot as a proposed change to the (Colorado constitution/Colorado Revised Statutes). If a sufficient number of registered electors sign this petition, this measure will appear on the ballot at the November (year) election.

(2) The ballot title for the measure shall then be printed on each page following the warning.

(3) For a petition section for a measure to be valid, the fiscal summary prepared in accordance with section 1-40-105.5 must be printed on the first page of an initiative petition section.

Source: L. 93: Entire article amended with relocations, p. 682, § 1, effective May 4. **L. 95:** IP(1) amended, p. 433, § 8, effective May 8. **L. 2000:** (1) amended, p. 1622, § 7, effective August 2. **L. 2009:** (1) amended, (HB 09-1326), ch. 258, p. 1172, § 8, effective May 15. **L. 2015:** (1) amended and (3) added, (HB 15-1057), ch. 198, p. 678, § 5, effective March 26, 2016. **L. 2020:** (1) and (3) amended, (HB 20-1416), ch. 232, p. 1126, § 4, effective November 1.

Editor's note: This section is similar to former § 1-40-106 as it existed prior to 1993, and the former § 1-40-110 was relocated to § 1-40-121 (1).

ANNOTATION

I. General Consideration.

II. Constitutional Construction.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Subsection (2) (now § 1-40-111) prohibited the court from validating the signatures collected for an initiative when its title and submission clause were found to be misleading. Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994).

II. CONSTITUTIONAL CONSTRUCTION.

Section 1-40-106 must be construed so as to allow qualified electors of the ages of eighteen through twenty to participate in the initiative process. Colo. Project-Common Cause v. Anderson, 178 Colo. 1, 495 P.2d 220 (1972).

Liberal construction must be given to statutes implementing initiative provisions of constitution. Billings v. Buchanan, 192 Colo. 32, 555 P.2d 176 (1976).

1-40-111. Notice of circulation - signatures - affidavits - notarization - list of circulators and notaries.

(1) (a) (I) A designated representative of the proponents shall notify the secretary of state, in the form and manner prescribed by the secretary of state, when an initiative or referendum petition that is being circulated has received seventy-five percent of the required number of signatures for the petition.

(II) If a designated representative does not comply with the requirements of subsection (1)(a)(I) of this section:

(A) The secretary of state may impose a fine on the designated representative; except that the fine shall not exceed the amount set forth in section 1-40-130 (2); and

(B) The noncompliance shall not be the basis for refusing to certify the petition for the ballot if the petition otherwise satisfies the requirements of this article 40.

(III) The secretary of state shall maintain and post on the secretary of state's website a list of any initiative or referendum petitions that have received seventy-five percent of the required number of signatures for the petition, as reported in accordance with subsection (1)(a)(I) of this section.

(b) Any initiative or referendum petition shall be signed only by registered electors who are eligible to vote on the measure. Each registered elector shall sign their own signature and shall print their name, the address at which they reside, including the street number and name, the city and town, and the date of signing. The circulator of a petition shall encourage each registered elector signing a petition to sign the petition in ink. In the event a registered elector is a person with a physical disability or is a person who is unable to read or write and the registered elector

wishes to sign the petition, the elector shall sign or make their mark in the space so provided. Any person, other than a circulator, may assist the elector who has a physical disability or who is unable to read or write in completing the remaining information required by this subsection (1). The person providing assistance shall sign their name and address and shall state that such assistance was given to the elector who has a physical disability or who is unable to read or write.

(2) (a) To each petition section shall be attached a signed, notarized, and dated affidavit executed by the person who circulated the petition section, which shall include his or her printed name, the address at which he or she resides, including the street name and number, the city or town, the county, and the date he or she signed the affidavit; that he or she has read and understands the laws governing the circulation of petitions; that he or she was a citizen of the United States and at least eighteen years of age at the time the section of the petition was circulated and signed by the listed electors; that he or she circulated the section of the petition; that each signature thereon was affixed in the circulator's presence; that each signature thereon is the signature of the person whose name it purports to be; that to the best of the circulator's knowledge and belief each of the persons signing the petition section was, at the time of signing, a registered elector; that he or she has not paid or will not in the future pay and that he or she believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix his or her signature to the petition; that he or she understands that he or she can be prosecuted for violating the laws governing the circulation of petitions, including the requirement that a circulator truthfully completed the affidavit and that each signature thereon was affixed in the circulator's presence; and that he or she understands that failing to make himself or herself available to be deposed and to provide testimony in the event of a protest shall invalidate the petition section if it is challenged on the grounds of circulator fraud.

(b) (I) A notary public shall not notarize an affidavit required pursuant to subsection (2)(a) of this section, unless:

(A) The circulator is in the physical presence of the notary public; and

(B) The circulator has dated the affidavit and fully and accurately completed all of the personal information on the affidavit required pursuant to subsection (2)(a) of this section.

(II) An affidavit that is notarized in violation of any provision of subparagraph (I) of this paragraph (b) shall be invalid.

(III) If the date signed by a circulator on an affidavit required pursuant to paragraph (a) of this subsection (2) is different from the date signed by the notary public, the affidavit shall be invalid. If, notwithstanding sub-subparagraph (B) of subparagraph (I) of this paragraph (b), a notary public notarizes an affidavit that has not been dated by the circulator, the notarization date shall not cure the circulator's failure to sign the affidavit and the affidavit shall be invalid.

(c) The secretary of state shall reject any section of a petition that does not have attached thereto a valid notarized affidavit that complies with all of the requirements set forth in paragraphs (a) and (b) of this subsection (2). Any signature added to a section of a petition after the affidavit has been executed shall be invalid.

(3) (a) As part of any court proceeding or hearing conducted by the secretary of state related to a protest of all or part of a petition section, the circulator of such petition section shall be required to make himself or herself available to be deposed and to testify in person, by telephone, or by any other means permitted under the Colorado rules of civil procedure. Except as set forth in paragraph (b) of this subsection (3), the petition section that is the subject of the protest shall be invalid if a circulator fails to comply with the requirement set forth in this paragraph (a) for any protest that includes an allegation of circulator fraud that is pled with particularity regarding:

(I) Forgery of a registered elector's signature;

(II) Circulation of a petition section, in whole or part, by anyone other than the person who signs the affidavit attached to the petition section;

(III) Use of a false circulator name or address in the affidavit; or

(IV) Payment of money or other things of value to any person for the purpose of inducing the person to sign the petition.

(b) Upon the finding by a district court or the secretary of state that the circulator of a petition section is unable to be deposed or to testify at trial or a hearing conducted by the secretary of state because the circulator has died, become mentally incompetent, or become medically incapacitated and physically unable to testify by any means whatsoever, the provisions of paragraph (a) of this subsection (3) shall not apply to invalidate a petition section circulated by the circulator.

(4) The proponents of a petition or an issue committee acting on the proponents' behalf shall maintain a list of the names and addresses of all circulators who circulated petition sections on behalf of the proponents and notaries public who notarized petition sections on behalf of the proponents and the petition section numbers that each circulator circulated and that each notary public notarized. A copy of the list shall be filed with the secretary of state along with the petition. If a copy of the list is not filed, the secretary of state shall prepare the list and charge the proponents a fee, which shall be determined and collected pursuant to section 24-21-104 (3), C.R.S., to cover the cost of the preparation. Once filed or prepared by the secretary of state, the list shall be a public record for purposes of article 72 of title 24, C.R.S.

Source: L. 93: Entire article amended with relocations, p. 683, § 1, effective May 4; (2)(a) amended, p. 2049, § 1, effective July 1. **L. 95:** (2) amended, p. 433, § 9, effective May 8. **L. 2007:** (2) amended, p. 1982, § 34, effective August 3. **L. 2009:** (2) amended and (3) and (4)

added, (HB 09-1326), ch. 258, p. 1172, § 9, effective May 15. **L. 2018:** (2)(a) amended, (HB 18-1145), ch. 113, p. 807, § 2, effective August 8. **L. 2021:** (2)(b)(I) amended, (SB 21-250), ch. 282, p. 1668, § 71, effective June 21. **L. 2025:** (1) amended, (HB 25-1327), ch. 446, p. 2565, § 5, effective June 4. **L. 2026:** (1)(b) amended, (HB 26-1113), ch. 267, p. 1516, § 66, effective June 1.

Editor's note: This section is similar to former § 1-40-106 as it existed prior to 1993, and the former § 1-40-111 was relocated to § 1-40-101.

Cross references: For the legislative declaration in HB 18-1145, see section 1 of chapter 113, Session Laws of Colorado 2018.

ANNOTATION

I. General Consideration.

II. Constitutional Construction.

III. Required Data.

IV. Signatures.

V. Circulators.

I. GENERAL CONSIDERATION.

Law reviews. For comment, "Buckley v. American Constitutional Law Foundation, Inc.: The Struggle to Establish a Consistent Standard of Review in Ballot Access Cases Continues", see 77 Den. U. L. Rev. 197 (1999).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Section 1-40-106 (2) (now this section) prohibited the court from validating the signatures collected for an initiative when its title and submission clause were found to be misleading. Matter of the Proposed Initiated Constitutional Amendment Concerning Limited Gaming in the City of Antonito, 873 P.2d 733 (Colo. 1994).

II. CONSTITUTIONAL CONSTRUCTION.

Section 1-40-106 must be construed so as to allow qualified electors of the ages of eighteen through twenty to participate in the initiative process. Colo. Project-Common Cause v. Anderson, 178 Colo. 1, 495 P.2d 220 (1972).

Liberal construction must be given to statutes implementing initiative provisions of constitution. Billings v. Buchanan, 192 Colo. 32, 555 P.2d 176 (1976).

III. REQUIRED DATA.

The purpose of the required data is that those interested in protesting may be apprised of that which will enable them conveniently to check the petition. Haraway

v. Armstrong, 95 Colo. 398, 36 P.2d 456 (1934).

And therefore, the careful entry of the residence (not mere post-office address) of each person with each name should be made at the time of the signing, and should show, in all cities and towns where there are street numbers, the street number of the residence of the signer. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

This is a very important provision. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

And it is the most efficient provision against fraud in this section. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

Also it is essential to an intelligent protest and should always be carefully obeyed. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

And the entry of the date of the signature is only less important. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

But both residence and date of the signature are mandatory by the provisions of § 1 of art. V, Colo. Const. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

Therefore, signatures to a petition, where the signer's residence can be identified by street and number, should be rejected if these are lacking. Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

But the residence and date of signing may be added by a person other than the petitioner. Haraway v. Armstrong, 95 Colo. 398, 36 P.2d 456 (1934).

Because neither the constitution nor this section specifically requires the signer to add his address and date of signing. Haraway v. Armstrong, 95 Colo. 398, 36 P.2d 456 (1934).

Such additions, although preferably done by the petitioner, may be done by another. Haraway v. Armstrong, 95 Colo. 398, 36 P.2d 456 (1934).

And failure of signers to insert residences is not ground for rejection. There is nothing in the constitution, statutes, or decisions justifying the rejection of signatures solely by reasons of the failure of signers, under the circumstances prevailing, to insert in the petition streets and numbers of their residences. Case v. Morrison, 118 Colo. 517, 197 P.2d 621 (1948).

And also omission of year from date petition signed was held immaterial. In considering the sufficiency of a petition, the fact that the year is omitted from the date upon which a signer affixed his signature to the petition is immaterial, where the document as a whole conclusively establishes the year in which the petition was signed. Haraway v. Armstrong, 95 Colo. 398, 36 P.2d 456 (1934), distinguishing Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

Moreover, until filed with the secretary of state, a petition for the initiation of a law is in no sense a public document, and may be checked and corrected by the sponsors before filing. Haraway v. Armstrong, 95 Colo. 398, 36 P.2d 456 (1934).

Computation of residency applicable for municipal referendum. Computation of residency by looking to the date of signature and then to the date of the prospective election to determine whether the durational requirement is satisfied is applicable to a municipal referendum residency requirement. Francis v. Rogers, 182 Colo. 430, 514 P.2d 311 (1973).

IV. SIGNATURES.

Initiative petition signatures must be collected in person even when a disaster emergency has been declared in response to a global pandemic. Provisions of article V, section 1 (6), of the state constitution requiring that petitions be signed by registered electors in their proper persons and that signatures be verified by another registered elector must be read together to require in-person signing in the presence of a petition circulator. The Colorado Disaster Emergency Act authorizes the governor to suspend certain types of statutes, rules, and regulations during a declared disaster emergency but does not authorize the suspension of constitutional provisions, and the governor therefore cannot issue an executive order allowing initiative petition signatures to be collected by mail or email. Ritchie v. Polis, 2020 CO 69, 467 P.3d 339.

Where two or more signatures on a petition are in the same handwriting, all such must be rejected. Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

So also where sections of a petition have been tampered with after the signatures have been affixed thereto, they must be rejected. Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

Newspaper pages cut and reassembled for inclusion in petition. Where newspaper pages, on which were printed petition forms in three parts which were used to secure signatures in support of a petition to place a proposed constitutional amendment on the ballot, were cut into the separate parts and then reassembled and bound together for inclusion in the petition presented to the secretary of state, this procedure did not invalidate the signatures since there was no showing or intimation that the separation of the forms involved any alteration, irregularity, or fraud. Billings v. Buchanan, 192 Colo. 32, 555 P.2d 176 (1976).

V. CIRCULATORS.

Since there was little in the record to support plaintiffs' claim that the affidavit requirement in subsection (2) significantly burdens political expression by decreasing the pool of available circulators, exacting scrutiny is not required. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Given the responsibility circulators bear in ensuring the integrity of elections involving ballot issues, and given the fact that the affidavit requirement is a reasonable, nondiscriminatory restriction, subsection (2) is not unduly burdensome and unconstitutionally vague. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

The requirements of this section are justified by the state's compelling need for the names and addresses of the circulators and the requirement is sufficiently narrowly drawn to be constitutional. The affidavit requirement has the primary purpose of providing the opportunity for an adequate hearing on the sufficiency of the signatures for the petition for other matters relevant to placing the measure on the ballot. There is a compelling necessity to be able to summon circulators to provide testimony at a hearing on challenges to the validity of the signatures and for other matters relevant to the petitioning process. Am. Constitutional Law Found., Inc. v. Meyer, 870 F. Supp. 995 (D. Colo. 1994), aff'd on other grounds, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Subsection (2)(b)(I)(C) does not severely burden first amendment rights. Because subsection (2)(b)(I)(C) does not contain a residency requirement, it does not restrict non-resident circulators from signature-gathering activities. Indep. Inst. v. Gessler, 869 F. Supp. 2d 1289 (D. Colo. 2012).

"Read and understand" requirement is a formal requirement to which the court will not apply strict scrutiny in a constitutional challenge: Although requirements limit the power of initiative, the limitation is not substantive. Loonan v. Woodley, 882 P.2d 1380 (Colo. 1994).

"Read and understand" requirement enhances the integrity of the election process and does not unconstitutionally infringe on the right to petition. Loonan v. Woodley, 882 P.2d 1380 (Colo. 1994).

"Read and understand" requirement is not unconstitutionally vague. Loonan v. Woodley, 882 P.2d 1380 (Colo. 1994).

Subsection (2) is sufficiently definite because it explicitly endorses the lay circulator's own interpretation of "understanding", and does not invest law enforcement officers with sweeping, unrestrained discretion. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

The requirement in subsections (2)(a) and (3)(a) that circulators make themselves available in the event of a protest does not burden first amendment rights. The state has a strong interest in maintaining the integrity of the petition process. Indep. Inst. v. Gessler, 869 F. Supp. 2d 1289 (D. Colo. 2012).

Omission of required affidavit language demonstrated that circulators of the petition did not read and understand the statute as required by this section. Loonan v. Woodley, 882 P.2d 1380 (Colo. 1994).

The circulator of a petition for the initiation of a measure can make a positive affidavit that a signature thereon is genuine by reason of its having been written in his presence or through his familiarity with the signer's handwriting, the pertinent law requiring only that the affidavit state that each signature is the signature of the person whose name it purports to be. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

But this section makes it a felony for one person to sign for another. Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

And a circulator who makes oath to the genuineness of such signatures, if done with knowledge, is guilty of perjury. Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

Since "purport" means to have the appearance or convey the impression of being. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And in a proceeding to determine the sufficiency of a petition, the contention that portions of the petition, although not vulnerable otherwise, should be discarded because circulators, as shown by other sections, had so deported themselves that they were unworthy of belief, overruled. Haraway v. Armstrong, 95 Colo. 398, 36 P.2d 456 (1934).

Substantial compliance is the standard the court must apply in assessing the effect of the deficiencies that caused the district court to hold petition signatures invalid. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

Discrepancies in the day or month of the circulator's date of signing and the date of notary acknowledgment render the relevant petitions invalid absent evidence that explains the differences in question. Petitions containing such discrepancies do not provide the necessary safeguards against abuse and fraud in the initiative process. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

Absent evidence that the change in signing was the product of the signing party, changes to a circulator's signing date do not represent substantial compliance with subsection (2) and serve to invalidate the signatures within the affected petitions. The district court properly held invalid signatures that were tainted by a change in the circulator's date of signing, where the date of signing was not accompanied by the initials of the circulator or other evidence in the record establishing that the circulator made the change. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

The district court erred in invalidating petitions that did not contain a notary seal. The purpose of the notarized affidavit provision in subsection (2) was substantially achieved despite the proponents' failure to secure a notary seal on petitions affecting 92 signatures. The record contains evidence that the affidavits with omitted seals were notarized by individuals with the same signature and commission expiration found on other affidavits with proper seals. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

The initiative proponents substantially complied with the requirements for a circulator's affidavit even though the circulator did not include a date of signing. When the circulator simply omits the date of signing, there is no reason to believe that the affidavit was not both subscribed and sworn to before the notary public on the date indicated in the jurat. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

1-40-112. Circulators - requirements - training.

(1) No person shall circulate a petition for an initiative or referendum measure unless the person is a citizen of the United States and at least eighteen years of age at the time the petition is circulated.

(2) (a) A circulator who is not to be paid for circulating a petition concerning a ballot issue shall display an identification badge that includes the words "VOLUNTEER CIRCULATOR" in bold-faced type that is clearly legible.

(b) A circulator who is to be paid for circulating a petition concerning a ballot issue shall display an identification badge that includes the words "PAID CIRCULATOR" in bold-faced type that is clearly legible and the name and telephone number of the individual employing the circulator.

(3) The secretary of state shall develop circulator training programs for paid and volunteer circulators. Such programs shall be conducted in the broadest, most cost-effective manner available to the secretary of state, including but not limited to training sessions for persons associated with the proponents or a petition entity, as defined in section 1-40-135 (1), and by electronic and remote access. The proponents of an initiative petition or the representatives of a petition entity shall inform paid and volunteer circulators of the availability of these training programs as one manner of complying with the requirement set forth in the circulator's affidavit that a circulator read and understand the laws pertaining to petition circulation.

(4) Repealed.

Source: L. 93: Entire article amended with relocations, p. 684, § 1, effective May 4. **L. 2007:** Entire section amended, p. 1982, § 35, effective August 3. **L. 2009:** (3) and (4) added, (HB 09-1326), ch. 258, p. 1174, § 10, effective July 1. **L. 2018:** (1) amended and (4) repealed, (HB 18-1145), ch. 113, p. 808, § 3, effective August 8.

Editor's note: (1) Subsection (1) is similar to former § 1-40-106 (3) as it existed prior to 1993, and the former § 1-40-112 was relocated to § 1-40-122 (1).

(2) In Independence Institute v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013), the United States District Court for the District of Colorado found subsection (4) of this section unconstitutional under the First Amendment of the United States Constitution and permanently enjoined the Colorado Secretary of State from enforcing subsection (4) and any ancillary provision that enforces subsection (4), namely, sections 1-40-135 and 1-40-121, to the extent those sections apply to the restrictions on per-signature compensation.

Cross references: For the legislative declaration in HB 18-1145, see section 1 of chapter 113, Session Laws of Colorado 2018.

ANNOTATION

Law reviews. For article, "Colorado's Citizen Initiative Again Scrutinized by the U.S. Supreme Court", see 28 Colo. Law. 71 (June 1999). For comment, "Buckley v. American Constitutional Law Foundation, Inc.: The Struggle to Establish a Consistent Standard of Review in Ballot Access Cases Continues", see 77 Den. U. L. Rev. 197 (1999).

Annotator's note. Since § 1-40-112 is similar to § 1-40-106 as it existed prior to the 1993 amendment of title 1, article 40, which resulted in the relocation of provisions, see the annotations under former § 1-40-106 in the 1980 replacement volume.

Identification badge requirement violates the first and fourteenth amendments to the United States constitution. The requirement substantially affects the number of potential petition circulators which translates into a corresponding decrease in the amount of protected political speech. The state's articulated interests, an interest in honesty in public discussion of governmental issues and in demonstrating grassroots support for an initiative, are not compelling and the restriction has not been narrowly drawn to further those interests. Am. Constitutional Law Found., Inc. v. Meyer, 870 F. Supp. 995 (D. Colo. 1994), aff'd on other grounds, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Badge requirement discourages participation in the petition circulation process by forcing name identification without sufficient cause. Buckley v. Am. Constitutional Law Found., 525 U.S. 182 (1999).

Because the requirement in subsection (1) that circulators be registered voters is not narrowly tailored to a compelling state interest, it unconstitutionally impinges on free expression. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd, 525 U.S. 182 (1999).

The age requirement is a neutral restriction that imposes only a temporary disability-it does not establish an absolute prohibition but merely postpones the opportunity to circulate petitions. Exacting scrutiny is not required. Because maturity is reasonably related to Colorado's interest in preserving the integrity of ballot issue elections, the first amendment challenge fails. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Subsection (2) is not narrowly tailored to serve the state's interest. Conditioning circulation upon wearing an identification

badge is a broad intrusion, discouraging truthful, accurate speech by those unwilling to wear a badge, and applying regardless of the character or strength of an individual's interest in anonymity. Additionally, the badges are but one part of the state's comprehensive scheme to combat circulation fraud. Article 40 of title 1 provides other tools that are much more narrowly tailored to serve the state's interest. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

The limitation in subsection (4) on per-signature compensation for petition circulators violates the first amendment of the United States constitution. Subsection (4) will deter most itinerant professionals from working in the state; eliminate low-volume professional circulators; and significantly increase the costs of a signature-gathering campaign. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The cost increase associated with subsection (4) is likely to lower the chances of underfunded proponents succeeding in the initiative and referendum process. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The effect of subsection (4) will be the exclusion from the initiative process of those who, through experience and self-selection, are the most efficient and effective circulators. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

To the extent subsection (4) prevents proponents from using individuals who would most effectively convey their message to the public, the statute places a substantial burden on the proponents' first amendment rights, even if the statute only restricts proponents from using some, but not all, circulators. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

Given the availability of other effective and less burdensome statutory tools to safeguard the state's interest in reducing fraud and the number of invalid petition signatures, subsection (4) poses an undue restriction on first amendment rights. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The secretary of state is permanently enjoined from enforcing subsection (4) and any ancillary statute that enforces subsection (4), namely, §§ 1-40-135 and 1-40-121 to the extent that those sections apply to the restriction on per-signature compensation found in subsection (4). Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

All circulators of initiative petitions must be registered electors, as required in both section 1 of article V of the state constitution and this section. Although the secretary of state was at one time enjoined by federal action from enforcing this requirement, after the injunction was lifted, she properly disallowed petitions circulated by nonregistered voters. McClellan v. Meyer, 900 P.2d 24 (Colo. 1995).

Training requirement is not a severe burden on first amendment rights. In instituting the training program, this state has a significant interest in ensuring that

petition entities are knowledgeable about state law in order to inform paid or unpaid circulators about the state's statutory requirements. Indep. Inst. v. Gessler, 869 F. Supp. 2d 1289 (D. Colo. 2012).

1-40-113. Form - representatives of signers.

(1) (a) Each section of a petition shall be printed on a form as prescribed by the secretary of state. No petition shall be printed, published, or otherwise circulated unless the form and the first printer's proof of the petition have been approved by the secretary of state. The designated representatives of the proponent are responsible for filing the printer's proof with the secretary of state, and the secretary of state shall notify the designated representatives whether the printer's proof is approved. Each petition section shall designate by name and mailing address two persons who shall represent the signers thereof in all matters affecting the same. The secretary of state shall assure that the petition contains only the matters required by this article and contains no extraneous material. All sections of any petition shall be prenumbered serially, and the circulation of any petition section described by this article other than personally by a circulator is prohibited. Any petition section circulated in whole or in part by anyone other than the person who signs the affidavit attached to the petition section shall be invalid. Any petition section that fails to conform to the requirements of this article or is circulated in a manner other than that permitted in this article shall be invalid.

(b) The secretary of state shall notify the proponents at the time a petition is approved pursuant to paragraph (a) of this subsection (1) that the proponents must register an issue committee pursuant to section 1-45-108 (3.3) if two hundred or more petition sections are printed or accepted in connection with circulation of the petition.

(c) The secretary of state shall notify the proponents at the time a petition format for an initiated amendment to the state constitution is approved pursuant to subsection (1)(a) of this section of the number and boundaries of the state senate districts in existence and the number of registered electors in each state senate district at the time of approval.

(d) The secretary of state shall notify the director of research of the legislative council at the time a petition is approved pursuant to (1)(a) of this section.

(2) Any disassembly of a section of the petition which has the effect of separating the affidavits from the signatures shall render that section of the petition invalid and of no force and effect.

(3) Each section of the petition must include the affidavits required by section 1-40-111 (2), together with the sheets containing the signatures accompanying the same.

Source: L. 93: Entire article amended with relocations, p. 684, § 1, effective May 4. **L. 95:** (1) and (3) amended, p. 434, § 10, effective May 8. **L. 2009:** (1) amended, (HB 09-1326), ch. 258, p. 1175, § 11, effective May 15. **L. 2010:** (1) amended, (HB 10-1370), ch. 270, p. 1240, § 2, effective January 1, 2011. **L. 2011:** (1)(a) and (3) amended, (HB 11-1072), ch. 255, p. 1104, § 4, effective August 10. **L. 2017:** (1)(c) added, (SB 17-152), ch. 169, p. 618, § 4, effective August 9. **L. 2020:** (1)(d) added, (HB 20-1416), ch. 232, p. 1126, § 5, effective November 1. **L. 2021:** (3) amended, (SB 21-250), ch. 282, p. 1669, § 72, effective June 21.

Editor's note: This section is similar to former § 1-40-107 as it existed prior to 1993, and the former § 1-40-113 was relocated to § 1-40-123.

Cross references: (1) For the legislative declaration in the 2010 act amending subsection (1), see section 1 of chapter 270, Session Laws of Colorado 2010.

(2) For the legislative declaration in the 2011 act amending subsections (1)(a) and (3), see section 1 of chapter 255, Session Laws of Colorado 2011.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

There is a substantial compliance with the requirements that petitions for the initiation of measures shall be printed on pages eight and one-half inches wide, and fourteen inches long with a margin of two inches at the top for binding, where the pages of the protested document are eight and one-half inches wide, thirteen and fifteen-sixteenths inches long, and the top margin varies from one and five-sixteenths inches to two and one-sixteenth inches on the various sheets. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And the separation and alteration of sections of a petition to initiate a measure, destroys the integrity of each one so separated and altered, and renders it worthless. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926); Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

Applied in Leach & Arnold Homes, Inc. v. City of Boulder, 32 Colo. App. 16, 507 P.2d 476 (1973).

1-40-114. Petitions - not election materials - no bilingual language requirement.

The general assembly hereby determines that initiative petitions are not election materials or information covered by the federal "Voting Rights Act of 1965", and therefore are not required to be printed in any language other than English to be circulated in any county in Colorado.

Source: L. 93: Entire article amended with relocations, p. 685, § 1, effective May 4.

Editor's note: This section is similar to former § 1-40-107.5 (3) as it existed prior to 1993, and the former § 1-40-114 was relocated. For a detailed comparison, see the comparative tables located in the back of the index.

ANNOTATION

Law reviews. For comment, "Montero v. Meyer: Official English, Initiative Petitions and the Voting Rights Act", see 66 Den. U. L. Rev. 619 (1989). For comment, "Another View of Montero v. Meyer and the English-Only Movement: Giving Language Prejudice the Sanction of the Law", see 66 Den. U. L. Rev. 633 (1989).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Minority language provisions of the federal Voting Rights Act not applicable to initiative petitions. With respect to initiative petitions, electoral process to which the minority language provisions of the Voting Rights Act would apply did not commence under state law until the measure was certified as qualified for placement on the ballot. Furthermore, the signing of petitions did not constitute "voting" under the act. Montero v. Meyer, 861 F.2d 603 (10th Cir. 1988) (1989) (decided prior to enactment of this section).

1-40-115. Ballot - voting - publication.

(1) Measures shall appear upon the official ballot by ballot title only. The measures shall be placed on the ballot in the order in which they were certified to the ballot and as provided in section 1-5-407 (5), (5.3), and (5.4).

(2) (a) All ballot measures shall be printed on the official ballot in that order, together with their respective letters and numbers prefixed in bold-faced type. A ballot issue arising under section 20 of article X of the state constitution shall appear in capital letters. Each ballot shall have the following explanation printed one time at the beginning of such ballot measures: "Ballot

questions referred by the general assembly or any political subdivision are listed by letter, and ballot questions initiated by the people are listed numerically. A ballot question listed as an 'amendment' proposes a change to the Colorado constitution, and a ballot question listed as a 'proposition' proposes a change to the Colorado Revised Statutes. A 'yes/for' vote on any ballot question is a vote in favor of changing current law or existing circumstances, and a 'no/against' vote on any ballot question is a vote against changing current law or existing circumstances." Each ballot title shall appear on the official ballot but once. For each ballot title that is an amendment, the amendment number or letter shall be immediately followed by the description "(CONSTITUTIONAL)". For each ballot title that is a proposition, the proposition number or letters shall be immediately followed by the description "(STATUTORY)". Each ballot title shall be separated from the other ballot titles next to it by heavy black lines and shall be followed by the words "YES/FOR" and "NO/AGAINST", along with a place for an eligible elector to designate his or her choice by a mark as instructed.

(b) For purposes of preparing an audio ballot as part of an accessible voting system:

(I) In lieu of the parenthetical description preceding a ballot title that is an amendment required by paragraph (a) of this subsection (2), the audio ballot shall include the following: "The following ballot question proposes a change to the Colorado constitution."; and

(II) In lieu of the parenthetical description preceding a ballot title that is a proposition required by paragraph (a) of this subsection (2), the audio ballot shall include the following: "The following ballot question proposes a change to the Colorado Revised Statutes.".

(3) A voter desiring to vote for the measure shall designate his or her choice by a mark in the place for "yes/for"; a voter desiring to vote against the measure shall designate his or her choice by a mark in the place for "no/against"; and the votes marked shall be counted accordingly. Any measure approved by the people of the state shall be printed with the acts of the next general assembly.

Source: L. 93: Entire article amended with relocations, p. 685, § 1, effective May 4. **L. 94:** (1) amended, p. 1180, § 74, effective July 1. **L. 95:** (3) amended, p. 434, § 11, effective May 8. **L. 97:** (2) amended, p. 189, § 17, effective August 6. **L. 2000:** (2) amended, p. 297, § 2, effective August 2. **L. 2009:** (2) amended, (HB 09-1326), ch. 258, p. 1175, § 12, effective January 1, 2010. **L. 2010:** (1) amended, (HB 10-1116), ch. 194, p. 840, § 28, effective May 5. **L. 2012:** (2) amended, (HB 12-1292), ch. 181, p. 688, § 41, effective May 17; (2)(a) and (3) amended, (HB 12-1089), ch. 70, p. 242, § 3, effective January 1, 2013.

Editor's note: (1) This section is similar to former § 1-40-108 (1) as it existed prior to 1993, and the former § 1-40-115 was relocated to § 1-40-127.

(2) Amendments to subsection (2)(a) by House Bill 12-1089 and House Bill 12-1292 were harmonized.

Cross references: (1) For printing of session laws, see § 24-70-223.

(2) For the legislative declaration in the 2012 act amending subsections (2)(a) and (3), see section 1 of chapter 70, Session Laws of Colorado 2012.

1-40-116. Validation - ballot issues - random sampling - rules.

(1) For ballot issues, each section of a petition to which there is attached an affidavit of the registered elector who circulated the petition that each signature thereon is the signature of the person whose name it purports to be and that to the best of the knowledge and belief of the affiant each of the persons signing the petition was at the time of signing a registered elector shall be prima facie evidence that the signatures are genuine and true, that the petitions were circulated in accordance with the provisions of this article, and that the form of the petition is in accordance with this article.

(2) Upon submission of the petition, the secretary of state shall examine each name and signature on the petition. The petition shall not be available to the public for examination for a period of not more than sixty calendar days; except that the examination must be complete no later than sixty-two days before the election at which the petition issue or question will appear on the ballot. The secretary shall assure that the information required by sections 1-40-110 and 1-40-111 is complete, that the information on each signature line was written by the person making the signature, and that no signatures have been added to any sections of the petition after the affidavit required by section 1-40-111 (2) has been executed.

(3) No signature shall be counted unless the signer is a registered elector and eligible to vote on the measure. A person shall be deemed a registered elector if the person's name and address appear on the master voting list kept by the secretary of state at the time of signing the section of the petition. In addition, the secretary of state shall not count the signature of any person whose information is not complete or was not completed by the elector or a person qualified to assist the elector. The secretary of state may adopt rules consistent with this subsection (3) for the examination and verification of signatures.

(4) (a) The secretary of state shall examine the signatures on the petition by use of random sampling. The random sample of signatures to be examined must be drawn so that every signature filed with the secretary of state is given an equal opportunity to be included in the sample. The secretary of state is authorized to engage in rule-making to establish the appropriate methodology for conducting such random sample.

(b) (I) The random sampling to validate signatures on a petition proposing an initiated law must include an examination of no less than five percent of the signatures, but in no event fewer than four thousand signatures. If the random sample examination establishes that the number of valid signatures is ninety percent or less of the number of registered eligible electors needed to find the petition sufficient, the secretary of state shall deem the petition to be not sufficient. If the random sample establishes that the number of valid signatures totals one hundred ten percent or more of the number of required signatures of registered eligible electors, the secretary of state shall deem the petition sufficient. If the random sample shows the number of valid signatures to be more than ninety percent but less than one hundred ten percent of the number of signatures of registered eligible electors needed to declare the petition sufficient, the secretary of state shall order the examination and validation of each signature filed.

(II) The random sampling to validate signatures on a petition proposing an amendment to the state constitution must include an examination of no fewer than five percent of the signatures, but in no event less than four thousand signatures. If the random sample establishes that the number of valid signatures is ninety percent or less of the number of registered electors required by section 1 (2) of article V of the state constitution to find the petition sufficient, the secretary of state shall deem the petition to be not sufficient. If the random sample shows the number of valid signatures to be more than ninety percent of the number of registered electors required by section 1 (2) of article V of the state constitution to declare the petition sufficient, the secretary of state shall order the examination of each signature filed.

Source: L. 93: Entire article amended with relocations, p. 686, § 1, effective May 4. **L. 95:** (1) amended, p. 435, § 12, effective May 8. **L. 2017:** (4) amended, (SB 17-152), ch. 169, p. 618, § 5, effective August 9. **L. 2026:** (2) amended, (HB 26-1113), ch. 267, p. 1517, § 67, effective June 1.

Editor's note: This section is similar to former § 1-40-109 as it existed prior to 1993, and the former § 1-40-116 was relocated. For a detailed comparison, see the comparative tables located in the back of the index.

ANNOTATION

I. General Consideration.

II. Prima Facie Evidence Signatures Genuine.

III. Amendment and Withdrawal of Petition.

IV. Supplements to the Petition.

I. GENERAL CONSIDERATION.

Law reviews. For comment, "Buckley v. American Constitutional Law Foundation, Inc.: The Struggle to Establish a Consistent

Standard of Review in Ballot Access Cases Continues", see 77 Den. U. L. Rev. 197 (1999).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Subsection (1) is not unconstitutionally vague. The general reference to circulator affidavits in this section is controlled by the specific affidavit requirements in § 1-40-111(2). Am. Constitutional Law Found., Inc. v. Meyer, 870 F. Supp. 995 (D. Colo. 1994), aff'd in part, rev'd in part on other grounds, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

The secretary of state is deemed to have complied with the 30-day requirement for verifying signatures when he or she conducts the random sampling and issues a statement determining the petition to be either sufficient or insufficient, even though the sampling is later found to be erroneous. The petition is not automatically deemed sufficient even though final determination of the sufficiency of the petition occurs outside of the thirty-day time frame. Buckley v. Chilcutt, 968 P.2d 112 (Colo. 1998).

If, based on a random sample, the secretary of state issues a good faith determination of insufficiency and a timely protest establishes that the petition contains more than 90% but less than 110% of the required signatures, the secretary of state is required to conduct a line-by-line examination of each signature. The results of the line-by-line count are subject to the protest and appeal process provided in § 1-40-118. Buckley v. Chilcutt, 968 P.2d 112 (Colo. 1998).

II. PRIMA FACIE EVIDENCE SIGNATURES GENUINE.

The statement in an affidavit attached to a petition for the initiation of a measure, that the signer "is a qualified elector", is prima facie evidence that the signatures thereon are genuine and that the persons signing are electors. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And the filing of a protest to the petition does not nullify this prima facie status nor relieve the protestants of the burden of establishing the insufficiency of the petition. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

Moreover, payment to circulators for procuring signatures held not to constitute fraud. A protest filed to a petition to initiate a measure, alleging fraud in the procurement of signatures, is not supported by the fact that circulators were paid a certain sum for signatures procured, there being nothing in the constitution or statutes prohibiting such practice. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

III. AMENDMENT AND WITHDRAWAL OF PETITION.

There is no provision permitting the amendment of a protest to a petition for the initiation of a measure after the expiration of the time allowed for filing the protest. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

The provision that a rejected petition for the initiation of a measure may be

refiled "as an original petition" after amendment is to be construed, not that it must be refiled within the statutory time fixed for the initial filing of such petitions, but after being refiled it is to be considered "as an original petition". Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

Former subsection (2), which provided that a rejected petition may be amended and refiled as an original, did not subject a cured petition to the deadline set forth in Colo. Const. art. V, § 11 (2). Montero v. Meyer, 795 P.2d 242 (Colo. 1990) (decided under law in effect prior to 1989 amendment).

But where a petition for the initiation of a constitutional amendment is filed within the time fixed by statute, in the event of protest and rejection, the sponsors, at their election, are entitled to refile the petition when amended within the 15 days allowed by this section. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

This is true even though the refiling date may fall beyond the six-month period fixed by §1-40-104 for the filing of original petitions. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And there is no statutory authorization for a protest against the filing, or refiling after withdrawal, of a petition, to initiate a measure under the initiative and referendum. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

Moreover, when a petition to initiate a measure under initiative and referendum is once withdrawn, it passes from official control and may be tampered with, amended, or destroyed. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932); Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

If the petition is withdrawn, no review can thereafter be prosecuted because without the petition no court could adjudicate its sufficiency. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

And an action to review an order of the secretary of state declaring a referendum petition insufficient cannot be left standing until the petition is amended and refiled, and later tried on an issue which did not exist when the cause was instituted. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

An action for review cannot survive a withdrawal to be further prosecuted on amendment and refiling because if refiled it comes back "as an original petition". Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

Therefore, the withdrawal of such a petition is equivalent to the dismissal of an action to review. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

And a demand for its withdrawal and a suit in mandamus to enforce that demand must necessarily have the same effect. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

Rule of the secretary of state regarding the procedure to determine the total number of valid petition signatures after submittal of additional signatures by addendum was authorized and is consistent with subsection (4). The rule

increases the accuracy of sufficiency determination, enhances the integrity of the petition process, and assures compliance with the constitutionally prescribed minimum number of votes necessary to qualify for placement of a measure on the statewide ballot. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

IV. SUPPLEMENTS TO THE PETITION.

Section 1 of art. V, Colo. Const., fixes the time within which a petition must be filed with the secretary of state. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

And requires a certain number of signatures of legal voters to be affixed thereto before a matter can be submitted to the voters at an election. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

Section 1 of art. V, Colo. Const., is a self-executing constitutional provision. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

So where there are insufficient signatures when a petition is originally presented, and too late filing when the supplements are presented, the petition for an initiated amendment to the constitution is not filed in compliance with § 1 of art. V, Colo. Const. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

Because permitting the filing of late supplements containing enough signatures to satisfy the mandate of the constitution would be a circumvention of this fundamental document. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

Moreover, § 1 of art. V, Colo. Const., mandatorily forecloses the acceptance of tardy supplements to a petition for an initiated amendment to the constitution. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

1-40-117. Statement of sufficiency - cure.

(1) After examining the petition:

(a) If the petition proposes a law, the secretary of state shall issue a statement as to whether a sufficient number of valid signatures appears to have been submitted to certify the petition to the ballot; or

(b) If the petition proposes an amendment to the state constitution, the secretary of state shall issue a statement as to whether a sufficient number of valid signatures from each state senate district and a sufficient total number of valid signatures appear to have been submitted to certify the petition to the ballot.

(2) If the petition proposes an initiated law and was validated by random sample, the statement must contain the total number of signatures submitted and whether the number of signatures presumed valid was ninety percent of the required total or less or one hundred ten percent of the required total or more.

(3) (a) If the secretary declares that the petition appears not to have a sufficient number of valid signatures, the statement issued by the secretary must specify the number of sufficient and insufficient signatures. The secretary shall identify by section number and line number within the section those signatures found to be insufficient and the grounds for the insufficiency. Such information shall be kept on file for public inspection in accordance with section 1-40-118.

(b) Repealed.

(4) During the review of a petition, the secretary of state shall notify the designated representatives of the proponents of any errors and insufficiencies regarding circulator affidavits. Upon the receipt of such a notification, the designated representatives of the proponents have five calendar days from the date of receipt of the notice to cure the errors and insufficiencies described in the notice. To cure a circulator affidavit, the designated representative of the proponents must provide the secretary of state with a new circulator affidavit that corrects the errors of the previously submitted affidavit.

Source: L. 93: Entire article amended with relocations, p. 687, § 1, effective May 4. **L. 2009:** (3)(b) amended, (HB 09-1326), ch. 258, p. 1176, § 13, effective May 15. **L. 2011:** (3)(b) amended, (HB 11-1072), ch. 255, p. 1104, § 5, effective August 10. **L. 2017:** Entire section amended, (SB 17-152), ch. 169, p. 619, § 6, effective August 9. **L. 2021:** (3)(b) repealed and (4) added, (SB 21-250), ch. 282, p. 1669, § 73, effective June 21.

Editor's note: This section is similar to former § 1-40-109 as it existed prior to 1993.

Cross references: For the legislative declaration in the 2011 act amending subsection (3)(b), see section 1 of chapter 255, Session Laws of Colorado 2011.

ANNOTATION

I. General Consideration.

II. Prima Facie Evidence Signatures Genuine.

III. Amendment and Withdrawal of Petition.

IV. Supplements to the Petition.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

II. PRIMA FACIE EVIDENCE SIGNATURES GENUINE.

The statement in an affidavit attached to a petition for the initiation of a measure, that the signer "is a qualified elector", is prima facie evidence that the signatures thereon are genuine and that the persons signing are electors. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And the filing of a protest to the petition does not nullify this prima facie status nor relieve the protestants of the burden of establishing the insufficiency of the petition. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

Moreover, payment to circulators for procuring signatures held not to constitute fraud. A protest filed to a petition to initiate a measure, alleging fraud in the procurement of signatures, is not supported by the fact that circulators were paid a certain sum for signatures procured, there being nothing in the constitution or statutes prohibiting such practice. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

III. AMENDMENT AND WITHDRAWAL OF PETITION.

There is no provision permitting the amendment of a protest to a petition for the initiation of a measure after the expiration of the time allowed for filing the protest. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

The provision that a rejected petition for the initiation of a measure may be refiled "as an original petition" after amendment is to be construed, not that it must be refiled within the statutory time fixed for the initial filing of such petitions, but after being refiled it is to be considered "as an original petition". Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

Former subsection (2), which provided that a rejected petition may be amended and refiled as an original, did not subject a cured petition to the deadline set forth in Colo. Const. art. V, § 11 (2). Montero v. Meyer, 795 P.2d 242 (Colo. 1990) (decided under law in effect prior to 1989 amendment).

But where a petition for the initiation of a constitutional amendment is filed within the time fixed by statute, in the event of protest and rejection, the sponsors, at their election, are entitled to refile the petition when amended within the fifteen days allowed by this section. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

This is true even though the refiling date may fall beyond the six-month period fixed by §1-40-104 for the filing of original petitions. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And there is no statutory authorization for a protest against the filing, or refiling after withdrawal, of a petition, to initiate a measure under the initiative and referendum. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

Moreover, when a petition to initiate a measure under initiative and referendum is once withdrawn, it passes from official control and may be tampered with, amended, or destroyed. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932);

Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

If the petition is withdrawn, no review can thereafter be prosecuted because without the petition no court could adjudicate its sufficiency. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

And an action to review an order of the secretary of state declaring a referendum petition insufficient cannot be left standing until the petition is amended and refiled, and later tried on an issue which did not exist when the cause was instituted. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

An action for review cannot survive a withdrawal to be further prosecuted on amendment and refiling because if refiled it comes back "as an original petition". Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

Therefore, the withdrawal of such a petition is equivalent to the dismissal of an action to review. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

And a demand for its withdrawal and a suit in mandamus to enforce that demand must necessarily have the same effect. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

IV. SUPPLEMENTS TO THE PETITION.

Section 1 of art. V, Colo. Const., fixes the time within which a petition must be filed with the secretary of state. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

And requires a certain number of signatures of legal voters to be affixed thereto before a matter can be submitted to the voters at an election. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

Section 1 of art. V, Colo. Const., is a self-executing constitutional provision. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

So where there are insufficient signatures when a petition is originally presented, and too late filing when the supplements are presented, the petition for an initiated amendment to the constitution is not filed in compliance with § 1 of art. V, Colo. Const. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

Because permitting the filing of late supplements containing enough signatures to satisfy the mandate of the constitution would be a circumvention of this fundamental document. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

Moreover, § 1 of art. V, Colo. Const., mandatorily forecloses the acceptance of tardy supplements to a petition for an initiated amendment to the constitution. Christensen v. Baker, 138 Colo. 27, 328 P.2d 951 (1958).

1-40-118. Protest.

(1) A protest in writing, under oath, together with three copies thereof, may be filed in the district court for the county in which the petition has been filed by some registered elector, within fifteen days after the secretary of state issues a statement as to whether the petition has a sufficient number of valid signatures, which statement must be issued no later than sixty calendar days after the petition has been filed; except that a statement must be issued no later than sixty-two days before the election at which the petition issue or question will appear on the ballot. If the secretary of state fails to issue a statement by the deadline required by this section, the petition is deemed sufficient. Regardless of whether the secretary of state has issued a statement of sufficiency or if the petition is deemed sufficient because the secretary of state has failed to issue a statement of sufficiency within thirty calendar days, no further agency action is necessary for the district court to have jurisdiction to consider the protest. During the period a petition is being examined by the secretary of state for sufficiency, the petition shall not be available to the public; except that such period must not exceed the deadline required by this section. Immediately after the secretary of state issues a statement of sufficiency or if the petition is deemed sufficient because the secretary of state has failed to issue the statement by the deadline required by this section, the secretary of state shall make the petition available to the public for copying upon request.

(2) (a) If the secretary of state conducted a random sample of the petitions and did not verify each signature, the protest shall set forth with particularity the defects in the procedure used by the secretary of state in the verification of the petition or the grounds for challenging individual signatures or petition sections, as well as individual signatures or petition sections protested. If the secretary of state verified each name on the petition sections, the protest shall set forth with particularity the grounds of the protest and the individual signatures or petition sections protested.

(b) Regardless of the method used by the secretary of state to verify signatures, the grounds for challenging individual signatures or petition sections pursuant to paragraph (a) of this subsection (2) shall include, but are not limited to, the use of a petition form that does not comply with the provisions of this article, fraud, and a violation of any provision of this article or any other law that, in either case, prevents fraud, abuse, or mistake in the petition process.

(c) If the protest is limited to an allegation that there were defects in the secretary of state's statement of sufficiency based on a random sample to verify signatures, the district court may review all signatures in the random sample.

(d) No signature may be challenged that is not identified in the protest by section number, line number, name, and reason why the secretary of state is in error. If any party is protesting the finding of the secretary of state regarding the registration of a signer, the protest shall be accompanied by an affidavit of the elector or a copy of the election record of the signer.

(2.5) (a) If a district court finds that there are invalid signatures or petition sections as a result of fraud committed by any person involved in petition circulation, the registered elector who instituted the proceedings may commence a civil action to recover reasonable attorney fees and costs from the person responsible for such invalid signatures or petition sections.

(b) A registered elector who files a protest shall be entitled to the recovery of reasonable attorney fees and costs from a proponent of an initiative petition who defends the petition against a protest or the proponent's attorney, upon a determination by the district court that the defense, or any part thereof, lacked substantial justification or that the defense, or any part thereof, was interposed for delay or harassment. A proponent who defends a petition against a protest shall be entitled to the recovery of reasonable attorney fees and costs from the registered elector who files a protest or the registered elector's attorney, upon a determination by the district court that the protest, or any part thereof, lacked substantial justification or that the protest, or any part thereof, was interposed for delay or harassment. No attorney fees may be awarded under this paragraph (b) unless the district court has first considered the provisions of section 13-17-102 (5) and (6), C.R.S. For purposes of this paragraph (b), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(c) A district court conducting a hearing pursuant to this article shall permit a circulator who is not available at the time of the hearing to testify by telephone or by any other means permitted under the Colorado rules of civil procedure.

(3) (Deleted by amendment, L. 95, p. 435, § 13, effective May 8, 1995.)

(4) The secretary of state shall furnish a requesting protestor with a computer tape or microfiche listing of the names of all registered electors in the state and shall charge a fee which shall be determined and collected pursuant to section 24-21-104 (3), C.R.S., to cover the cost of furnishing the listing.

(5) Written entries that are made by petition signers, circulators, and notaries public on a petition section that substantially comply with the requirements of this article 40 shall be deemed valid by the secretary of state or any court, unless:

(a) Fraud, as specified in section 1-40-135 (2)(c), is established by a preponderance of the evidence;

(b) A violation of any provision of this article or any other provision of law that, in either case, prevents fraud, abuse, or mistake in the petition process, is established by a preponderance of the evidence;

(c) A circulator used a petition form that does not comply with the provisions of this article or has not been approved by the secretary of state.

Source: L. 93: Entire article amended with relocations, p. 688, § 1, effective May 4. **L. 95:** (1) to (3) amended, p. 435, § 13, effective May 8. **L. 2009:** (1) and (2) amended and (2.5) and (5) added, (HB 09-1326), ch. 258, p. 1176, § 14, effective May 15. **L. 2018:** IP(5) and (5)(a) amended, (HB 18-1145), ch. 113, p. 808, § 4, effective August 8. **L. 2021:** (1) amended, (SB 21-250), ch. 282, p. 1670, § 74, effective June 21. **L. 2026:** (1) amended, (HB 26-1113), ch. 267, p. 1517, § 68, effective June 1.

Editor's note: This section is similar to former § 1-40-109 as it existed prior to 1993, and provisions of the former § 1-40-118 were relocated to § 1-40-130.

Cross references: For the legislative declaration in HB 18-1145, see section 1 of chapter 113, Session Laws of Colorado 2018.

ANNOTATION

I. General Consideration.

II. Specification of Grounds and Oath.

III. Amended Protest.

IV. Protests Before Secretary of State.

V. Remedy Provided.

VI. Effect on Other Tribunals.

VII. Injunction for Fraud.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

II. SPECIFICATION OF GROUNDS AND OATH.

The provisions of this section that a protest to a petition for the submission of an act of the general assembly to the people must specify the grounds of such protest, and be under oath, are jurisdictional. Ramer v. Wright, 62 Colo. 53, 159 P. 1145 (1916); Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And the secretary of state is without power to act in the absence of a substantial compliance therewith. Ramer v. Wright, 62 Colo. 53, 159 P. 1145 (1916); Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

There was not a substantial compliance where, appended to a protest, appeared the certificate of a notary public that certain persons each "deposes and says: That he subscribed the above protest after reading the same, and the contents thereof are true to the best of his knowledge, information and belief", but there was no statement that the persons named were sworn. Therefore, the secretary had no authority to entertain the protest. Ramer v. Wright, 62 Colo. 53, 159 P. 1145 (1916).

The requirement that the protest must be under oath is not so unreasonable as to invalidate the statute. Ramer v. Wright, 62 Colo. 53, 159 P. 1145 (1916).

III. AMENDED PROTEST.

Whether a protest should specify the names protested was not determined in Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

Amended protest was properly dismissed by the secretary of state despite the secretary's incorrect notification to the protestor that a protest could be filed by a specified date. The secretary of state lacked the authority to enlarge the protest period provided in former version of this section, and protestor cannot state claim for relief under theory of estoppel against a state entity on the basis of an unauthorized action or promise. Montero v. Meyer, 795 P.2d 242 (Colo. 1990) (decided under law in effect prior to 1989 amendment).

Petitioners properly sought district court review under this section and § 1-40-119 without first pursuing the administrative remedies outlined in § 1-40-132 (1). Section 1-40-132 (1) is inapplicable to determination whether a petition has a sufficient number of valid signatures to qualify for placement of an initiated measure on the ballot. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

IV. PROTESTS BEFORE SECRETARY OF STATE.

Where a petition is protested before the secretary of state, that official in making findings should specify the names or categories of names which should be rejected. Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

The secretary of state improperly applied the perfect match rule in disallowing signatures where there was a discrepancy between the street directional or apartment number as they appeared on the petition and the master voting list. This information is not required under the statute and is therefore extraneous. McClellan v. Meyer, 900 P.2d 24 (Colo. 1995).

The secretary of state also erred in disallowing signatures based on discrepancies between the name of the town as included with the signature and as stated on the master voting list where the secretary had actual knowledge that the discrepancies were a result of the creation of a town that occurred after preparation of the master voting list. McClellan v. Meyer, 900 P.2d 24 (Colo. 1995).

The secretary of state properly disallowed signatures when the signer indicated or omitted a designation of junior or senior that was omitted from or included on the master list. McClellan v. Meyer, 900 P.2d 24 (Colo. 1995).

Where an elector moves to a new residence and retains the same post office box as a mailing address, the signature should be rejected unless the elector is registered at a post office address and the post office address is the only address assigned to a particular residence. McClellan v. Meyer, 900 P.2d 24 (Colo. 1995).

V. REMEDY PROVIDED.

This section provides one special remedy and only one, a judicial review of "the findings as to the sufficiency" of the petition. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

However, this remedy is not compulsory. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

The parties may waive it, or abandon or dismiss it after beginning it. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

But where a petition is protested before the secretary of state, after whose decision the matter is taken into court, the case is before the court for review and not for trial de novo. Miller v. Armstrong, 84 Colo. 416, 270 P. 877 (1928).

And on dismissal of such an action, an order of the trial court that the petition be returned to the secretary of state is proper. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

If, based on a random sample, the secretary of state issues a good faith determination of insufficiency and a timely protest establishes that the petition contains more than 90 % but less than 110 % of the required signatures, the secretary of state is required to conduct a line-by-line examination of each signature. The results of the line-by-line count are subject to the protest and appeal process provided in this section. Buckley v. Chilcutt, 968 P.2d 112 (Colo. 1998).

VI. EFFECT ON OTHER TRIBUNALS.

This section sets up a special procedure for protesting petitions for the initiation of measures. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

But it does not deprive courts of equity of jurisdiction in such cases. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

And the statutory procedure outlined has no application to actions in equity courts. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

This section does not provide an exclusive and adequate remedy so as to deprive equity courts of jurisdiction. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

Section inapplicable to actions in court. The provisions of this section concerning the sufficiency of petitions for the initiation of laws have no application to action in court. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

And courts may interfere in matters preliminary to elections, such as determining the validity of a petition to initiate a measure. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

Proceedings before the secretary of state to determine the validity of a petition to initiate a measure is not another suit pending so as to oust a court of jurisdiction in an action to enjoin the placing of the measure on the ballot. And, where it does not appear on the face of a complaint that there is another suit pending, such objection may not be raised by

demurrer. Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

VII. INJUNCTION FOR FRAUD.

Fraud may be the basis of an injunction against the submission of the subject of the petition to vote, which submission is also a preliminary of the election. Leckenby v. Post Printing & Publ'g Co., 65 Colo. 443, 176 P. 490 (1918); Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

And if we do not hold in this way, we shall be compelled to say that if a petition with a sufficient number of names, on its face valid, should be laid before the secretary of state, it could not be successfully attacked even though every name were forged and every affidavit attached to it were false. Leckenby v. Post Printing & Publ'g Co., 65 Colo. 443, 176 P. 490 (1918); Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

The petition is a preliminary to an initiated election, and if fraudulent, may not be given effect. Leckenby v. Post Printing & Publ'g Co., 65 Colo. 443, 176 P. 490 (1918); Elkins v. Milliken, 80 Colo. 135, 249 P. 655 (1926).

1-40-119. Procedure for hearings.

At any hearing held under this article, the party protesting the finding of the secretary of state concerning the sufficiency of signatures shall have the burden of proof. Hearings shall be had as soon as is conveniently possible and shall be concluded within thirty days after the commencement thereof, and the result of such hearings shall be forthwith certified to the designated representatives of the signers and to the protestors of the petition. The hearing shall be subject to the provisions of the Colorado rules of civil procedure. Upon application, the decision of the court shall be reviewed by the Colorado supreme court.

Source: L. 93: Entire article amended with relocations, p. 689, § 1, effective May 4. **L. 95:** Entire section amended, p. 436, § 14, effective May 8.

Editor's note: This section is similar to former § 1-40-109 (2)(a) as it existed prior to 1993, and the former § 1-40-119 was relocated to § 1-40-132 (1).

ANNOTATION

Petitioners properly sought district court review under this section and § 1-40-118 without first pursuing the administrative remedies outlined in § 1-40-132 (1). Section 1-40-132 (1) is inapplicable to determination whether a petition has a sufficient number of valid signatures to qualify for placement of an

initiated measure on the ballot. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

1-40-120. Filing in federal court.

In case a complaint has been filed with the federal district court on the grounds that a petition is insufficient due to failure to comply with any federal law, rule, or regulation, the petition may be withdrawn by the two persons designated pursuant to section 1-40-104 to represent the signers of the petition and, within fifteen days after the court has issued its order in the matter, may be amended and refiled as an original petition. Nothing in this section shall prohibit the timely filing of a protest to any original petition, including one that has been amended and refiled. No person shall be entitled, pursuant to this section, to amend an amended petition.

Source: L. 93: Entire article amended with relocations, p. 689, § 1, effective May 4.

Editor's note: This section is similar to former § 1-40-109 (2)(b) as it existed prior to 1993.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The provision that a rejected petition for the initiation of a measure may be refiled "as an original petition" after amendment is to be construed, not that it must be refiled within the statutory time fixed for the initial filing of such petitions, but after being refiled it is to be considered "as an original petition". Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

Former section, which provided that a rejected petition may be amended and refiled as an original, did not subject a cured petition to the deadline set forth in Colo. Const. art. V, § 11 (2). Montero v. Meyer, 795 P.2d 242 (Colo. 1990) (decided under law in effect prior to 1989 amendment).

But where a petition for the initiation of a constitutional amendment is filed within the time fixed by statute, in the event of protest and rejection, the sponsors, at their election, are entitled to refile the petition when amended within the fifteen days allowed by this section. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

This is true even though the refiling date may fall beyond the six-month period fixed by § 1-40-104 for the filing of original petitions. Brownlow v. Wunch, 103 Colo. 120, 83 P.2d 775 (1938).

And there is no statutory authorization for a protest against the filing, or refiling after withdrawal, of a petition, to initiate a

measure under the initiative and referendum. Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

Moreover, when a petition to initiate a measure under initiative and referendum is once withdrawn, it passes from official control and may be tampered with, amended, or destroyed. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932); Brownlow v. Wunch, 102 Colo. 447, 80 P.2d 444 (1938).

If the petition is withdrawn, no review can thereafter be prosecuted because without the petition no court could adjudicate its sufficiency. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

And an action to review an order of the secretary of state declaring a referendum petition insufficient cannot be left standing until the petition is amended and refiled, and later tried on an issue which did not exist when the cause was instituted. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

An action for review cannot survive a withdrawal to be further prosecuted on amendment and refiling because if refiled it comes back "as an original petition". Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

Therefore, the withdrawal of such a petition is equivalent to the dismissal of an action to review. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

And a demand for its withdrawal and a suit in mandamus to enforce that demand must necessarily have the same effect. Robinson v. Armstrong, 90 Colo. 363, 9 P.2d 481 (1932).

1-40-121. Designated representatives - expenditures related to petition circulation - report - penalty - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Expenditure" shall have the same meaning as set forth in section 2 (8) of article XXVIII of the state constitution and includes a payment to a circulator.

(b) "False address" means the street address, post office box, city, state, or any other designation of place used in a circulator's affidavit that does not represent the circulator's correct address of permanent domicile at the time he or she circulated petitions. "False address" does not include an address that merely omits the designation of "street", "avenue", "boulevard", or any comparable term.

(c) "Report" means the report required to be filed pursuant to subsection (2) of this section.

(2) No later than ten days after the date that the petition is filed with the secretary of state, the designated representatives of the proponents must submit to the secretary of state a report that:

(a) States the dates of circulation by all circulators who were paid to circulate a section of the petition, the total hours for which each circulator was paid to circulate a section of the petition, the gross amount of wages paid for such hours, and any addresses used by circulators on their affidavits that the designated representatives or their agents have determined, prior to petition filing, to be false addresses.

(b) Repealed.

(3) (a) Within ten days after the date the report is filed, a registered elector may file a complaint alleging a violation of the requirements for the report set forth in subsection (2) of this section. The designated representatives of the proponents may cure the alleged violation by filing a report or an addendum to the original report within ten days after the date the complaint is filed. If the violation is not cured, an administrative law judge shall conduct a hearing on the complaint within fourteen days after the date of the additional filing or the deadline for the additional filing, whichever is sooner.

(b) (I) After a hearing is held, if the administrative law judge determines that the designated representatives of the proponents intentionally violated the reporting requirements of this section, the designated representatives shall be subject to a penalty that is equal to three times the amount of any expenditures that were omitted from or erroneously included in the report.

(II) If the administrative law judge determines that the designated representatives intentionally misstated a material fact in the report or omitted a material fact from the report, or if the designated representatives never filed a report, the registered elector who instituted the proceedings may commence a civil action to recover reasonable attorney fees and costs from the designated representatives of the proponents.

(c) Except as otherwise provided in this section, any procedures related to a complaint shall be governed by the "State Administrative Procedure Act", article 4 of title 24, C.R.S.

Source: L. 93: Entire article amended with relocations, p. 690, § 1, effective May 4. **L. 95:** (1) and IP(2) amended, p. 436, § 15, effective May 8. **L. 98:** (1) amended, p. 815, § 2, effective August 5. **L. 2007:** Entire section amended, p. 1983, § 36, effective August 3. **L. 2009:** (1) amended, (HB 09-1326), ch. 258, p. 1178, § 15, effective May 15. **L. 2011:** Entire section R&RE, (HB 11-1072), ch. 255, p. 1105, § 6, effective August 10. **L. 2024:** (2)(b) repealed, (SB 24-210), ch. 468, p. 3259, § 47, effective June 6.

Cross references: For the legislative declaration in the 2011 act amending this section, see section 1 of chapter 255, Session Laws of Colorado 2011.

ANNOTATION

Law reviews. For article, "Colorado's Citizen Initiative Again Scrutinized by the U.S. Supreme Court", see 28 Colo. Law. 71 (June 1999). For comment, "Buckley v. American Constitutional Law Foundation, Inc.: The Struggle to Establish a Consistent Standard of Review in Ballot Access Cases Continues", see 77 Den. U. L. Rev. 197 (1999).

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Ban of "inducement" overly broad. The language of this section is too broad to survive strict scrutiny. The ban of any "inducement" to petition circulation sweeps far too broadly. Urevich v. Woodward, 667 P.2d 760 (Colo. 1983).

Section construed to delete "inducement". This section must be narrowed to delete the word "inducement". Urevich v. Woodward, 667 P.2d 760 (Colo. 1983).

Section unconstitutional. This section violates the first and fourteenth amendments to the U.S. constitution by imposing a direct and substantial restriction on the right to political speech, employing unnecessarily broad prohibitions. Grant v. Meyer, 828 F.2d 1446 (10th Cir. 1987), aff'd, 486 U.S. 414 (1988).

Given the business of circulation for hire, there is an interest in compelling disclosure by the proponents of the persons or entities being hired, not only to prevent fraud but to give the public information concerning who the principal proponents are and what kind of financial resources may be available to them. That legitimate interest, however, is not significantly advanced by disclosure of the names and addresses of each person paid to circulate any section of the petition. What is of interest is the payor, not the payees. Upon elimination of the provision requiring identification of the circulators, the burden on proponents is slight. This requirement as modified is valid. Am. Constitutional Law Found., Inc. v. Meyer, 870 F. Supp. 995 (D. Colo. 1994), aff'd, 120 F.3d 1092 (10th Cir. 1997), aff'd, 525 U.S. 182 (1999).

To the extent the monthly report requirement includes the name and residential and business addresses of each of the paid circulators, it is unconstitutional. Am. Constitutional Law Found., Inc. v. Meyer, 870 F. Supp. 995 (D. Colo. 1994), aff'd, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Requiring proponents to provide a detailed roster of all who were paid to circulate compromises the expressive rights of paid circulators, but sheds little light on the relative merit of the ballot issue. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Compelling detailed monthly disclosures while the petition is being circulated chills speech by forcing paid circulators to surrender the anonymity enjoyed by their volunteer counterparts.

Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd, 525 U.S. 182 (1999).

Since the state has failed to demonstrate how monthly reports meet the stated objectives of preventing fraud as compared with the final report to be filed when the petitions are submitted to the designated election official, the monthly reports are restrictions on core political speech and are invalid. Preparation of the monthly reports is burdensome and involves an additional expense to those supporting an initiative or referendum petition. Testimony was presented showing that the monthly reports affect the circulation process and therefore the amount of core political speech. Am. Constitutional Law Found., Inc. v. Meyer, 870 F. Supp. 995 (D. Colo. 1994), aff'd, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Compelling the disclosure of the identities of every paid circulator chills paid circulation, a constitutionally protected exercise. Although the fact that disclosure is made at the time the proponents file the petition lessens the burden of the disclosure, the law fails exacting scrutiny because the interests asserted by the state either already are or can be protected by less intrusive measures. Am. Constitutional Law Found., Inc. v. Meyer, 120 F.3d 1092 (10th Cir. 1997), aff'd on other grounds, 525 U.S. 182 (1999).

Disclosure requirement does not violate the first amendment. The state's interest in informing the public about the sources of funding for ballot measures outweighs the slight burden imposed by the reporting requirement. Indep. Inst. v. Gessler, 869 F. Supp. 2d 1289 (D. Colo. 2012).

The limitation in § 1-40-112 (4) on per-signature compensation for petition circulators violates the first amendment of the United States constitution. Section 1-40-112 (4) will deter most itinerant professionals from working in the state; eliminate low-volume professional circulators; and will significantly increase the costs of a signature-gathering campaign. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The cost increase associated with § 1-40-112 (4) is likely to lower the chances of underfunded proponents succeeding in the initiative and referendum process. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The effect of § 1-40-112 (4) will be the exclusion from the initiative process of those who, through experience and self-selection, are the most efficient and effective circulators. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

To the extent § 1-40-112 (4) prevents proponents from using individuals who would most effectively convey their message to the public, the statute places a substantial burden on the proponents' first amendment rights, even if the statute only restricts proponents from using some, but not all, circulators. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

Given the availability of other effective and less burdensome statutory tools to safeguard the state's interest in reducing fraud and the number of invalid petition

signatures, § 1-40-112 (4) poses an undue restriction on first amendment rights. Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The secretary of state is permanently enjoined from enforcing § 1-40-112 (4) and any ancillary statute that enforces § 1-40-112 (4), namely, § 1-40-135 and this section to the extent that those sections apply to the restriction on per-signature compensation found in § 1-40-112 (4). Indep. Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

1-40-122. Certification of ballot titles.

(1) The secretary of state, at the time the secretary of state certifies to the county clerk and recorder of each county the names of the candidates for state and district offices for general election, shall also certify to them the ballot titles and numbers of each initiated and referred measure filed in the office of the secretary of state to be voted upon at such election.

(2) Repealed.

Source: L. 93: Entire article amended with relocations, p. 690, § 1, effective May 4. **L. 95:** (2) repealed, p. 436, § 16, effective May 8.

Editor's note: Subsection (1) is similar to former § 1-40-112 as it existed prior to 1993.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

Secretary of state properly certified initiated measure for general election ballot, even though a challenge to the measure had been filed with the secretary pursuant to former § 1-40-109 (2). Montero v. Meyer, 795 P.2d 242 (Colo. 1990).

Secretary of state has sole authority to set election dates or place initiated measures on ballot, and title setting board has no such authority. Matter of Title, Ballot Title, Etc., 850 P.2d 144 (Colo. 1993).

1-40-123. Counting of votes - effective date - conflicting provisions.

(1) The votes on all measures submitted to the people shall be counted and properly entered after the votes for candidates for office cast at the same election are counted and shall be counted, canvassed, and returned and the result determined and certified in the manner provided

by law concerning other elections. The secretary of state who has certified the election shall, without delay, make and transmit to the governor a certificate of election. The measure takes effect from and after the date of the official declaration of the vote by proclamation of the governor, but not later than thirty days after the votes have been canvassed, as provided in section 1 of article V of the state constitution.

(2) A majority of the votes cast thereon adopts any measure submitted for a proposed law, and, in case of adoption of conflicting provisions, the one that receives the greatest number of affirmative votes prevails in all particulars as to which there is a conflict.

(3) At least fifty-five percent of the votes cast thereon adopts any measure submitted for an amendment to the state constitution; except that a majority of the votes cast thereon adopts any measure submitted for an amendment to the state constitution that only repeals in whole or in part any provision of the state constitution. In the case of adoption of conflicting provisions, the one that receives the greatest number of affirmative votes prevails in all particulars as to which there is a conflict.

Source: L. 93: Entire article amended with relocations, p. 691, § 1, effective May 4. **L. 95:** Entire section amended, p. 436, § 17, effective May 8. **L. 2017:** Entire section amended, (SB 17-152), ch. 169, p. 620, § 7, effective August 9.

Editor's note: This section is similar to former § 1-40-113 as it existed prior to 1993.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

This section enhances rather than limits the right of the people to amend the Colorado constitution. In re Interrogatories Propounded by Senate Concerning House Bill 1078, 189 Colo. 1, 536 P.2d 308 (1975).

Conflicting constitutional amendments. Amendment nos. 6 and 9, proposed constitutional amendments relating to reapportionment on the ballot at the general election held on November 5, 1974, are in conflict where the former, a housekeeping amendment, among many other things, provides that the general assembly is to establish district boundaries and that there is to be no more than a five percent population deviation from the mean in each district while the latter, dealing exclusively with reapportionment, provides for a commission to promulgate a plan of reapportionment which the supreme court either approves or, in effect, orders modified as required by the court and for a maximum five percent deviation between the most populous and the least populous district in each house. In

re Interrogatories Propounded by Senate Concerning House Bill 1078, 189 Colo. 1, 536 P.2d 308 (1975).

One with most votes prevails. In order to carry out the meaning and purpose of § 1 of art. V, Colo. Const., the one of two inconsistent amendments which received the most votes must prevail. That, in the view of the supreme court, is what the "republican" form of government means with respect to the right of the people to amend the constitution. In re Interrogatories Propounded by Senate Concerning House Bill 1078, 189 Colo. 1, 536 P.2d 308 (1975).

It is the duty of the court, whenever possible, to give effect to the expression of the will of the people contained in constitutional amendments adopted by them. In re Interrogatories Propounded by the Senate Concerning House Bill 1078, 189 Colo. 1, 536 P.2d 308 (1975); Submission of Interrogatories on Senate Bill 93-74, 852 P.2d 1 (Colo. 1993).

When two constitutional amendments are simultaneously adopted, the court should not resort to rules that give effect to one provision at the expense of the other unless there is an irreconcilable, material, and direct conflict between the two amendments. Submission of Interrogatories on Senate Bill 93-74, 852 P.2d 1 (Colo. 1993).

When constitutional amendments enacted at the same election are in such irreconcilable conflict, the one which receives the greatest number of affirmative votes shall prevail in all particulars as to which there is a conflict. Submission of Interrogatories on Senate Bill 93-74, 852 P.2d 1 (Colo. 1993).

The test for the existence of a conflict is: Does one authorize what the other forbids or forbid what the other authorizes? Submission of Interrogatories on Senate Bill 93-74, 852 P.2d 1 (Colo. 1993).

1-40-124. Publication.

(1) (a) In accordance with section 1 (7.3) of article V of the state constitution, the director of research of the legislative council of the general assembly shall cause to be published at least one time in at least one legal publication of general circulation in each county of the state, compactly and without unnecessary spacing, in not less than eight-point standard type, a true copy of:

(I) The title and text of each constitutional amendment, initiated or referred measure, or part of a measure, to be submitted to the people with the number and form in which the ballot title thereof will be printed in the official ballot; and

(II) The text of each referred or initiated question arising under section 20 of article X of the state constitution, as defined in section 1-41-102 (3), to be submitted to the people with the number and form in which such question will be printed in the official ballot.

(b) The publication may be in the form of a notice printed in a legal newspaper, as defined in sections 24-70-102 and 24-70-103 (1), C.R.S., or in the form of a publication that is printed

separately and delivered as an insert in such a newspaper. The director of research of the legislative council may determine which form the publication will take in each legal newspaper. The director may negotiate agreements with one or more legal newspapers, or with any organization that represents such newspapers, to authorize the printing of a separate insert by one or more legal newspapers to be delivered by all of the legal newspapers participating in the agreement.

(c) Where more than one legal newspaper is circulated in a county, the director of research of the legislative council shall select the newspaper or newspapers that will make the publication. In making such selection, the director shall consider the newspapers' circulation and charges.

(d) The amount paid for publication shall be determined by the executive committee of the legislative council and shall be based on available appropriations. In determining the amount, the executive committee may consider the newspaper's then effective current lowest bulk comparable or general rate charged and the rate specified for legal newspapers in section 24-70-107, C.R.S. The director of research of the legislative council shall provide the legal newspapers selected to perform printing in accordance with this subsection (1) either complete slick proofs or mats of the title and text of the proposed constitutional amendment, initiated or referred measure, or part of a measure, and of the text of a referred or initiated question arising under section 20 of article X of the state constitution, as defined in section 1-41-102 (3), at least one week before the publication date.

(e) If no legal newspaper is willing or able to print or distribute the publication in a particular county in accordance with the provisions of this subsection (1), the director of research of the legislative council shall assure compliance with the publication requirements of section 1 (7.3) of article V of the state constitution by causing the printing of additional inserts or legal notices in such manner and form as deemed necessary and by providing for their separate circulation in the county as widely as may be practicable. Such circulation may include making the publications available at government offices and other public facilities or private businesses. If sufficient funds are available for such purposes, the director may also contract for alternative methods of circulation or may cause circulation by mailing the publication to county residents. Any printing and circulation made in accordance with this paragraph (e) shall be deemed to be a legal publication of general circulation for purposes of section 1 (7.3) of article V of the state constitution.

(2) (Deleted by amendment, L. 95, p. 437, § 18, effective May 8, 1995.)

Source: L. 93: Entire article amended with relocations, p. 691, § 1, effective May 4. **L. 94:** (1) amended, p. 1688, § 1, effective January 19, 1995. **L. 95:** Entire section amended, p. 437, § 18, effective May 8. **L. 2000:** (1) amended, p. 298, § 3, effective August 2. **L. 2004:** (1) amended, p. 961, § 1, effective May 21.

Editor's note: (1) This section is similar to former § 1-40-114 (1) and (2) as it existed prior to 1993.

(2) Section 5 of chapter 284, Session Laws of Colorado 1994, provided that the act amending subsection (1) was effective on the date of the proclamation of the Governor announcing the approval, by the registered electors of the state, of Senate Concurrent Resolution 94-005, enacted at the Second Regular Session of the Fifty-ninth General Assembly. The date of the proclamation of the Governor announcing the approval of Senate Concurrent Resolution 94-005 was January 19, 1995.

ANNOTATION

I. General Consideration.

II. Publication.

III. Newspapers of General Circulation.

I. GENERAL CONSIDERATION.

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The facts upon which depend the question whether an amendment proposed to the constitution has received the approval of the people will be judicially noticed and the court will resort to all sources of information which may afford satisfactory evidence upon the question. Harrison v. People ex rel. Whatley, 57 Colo. 137, 140 P. 203 (1914).

II. PUBLICATION.

The purpose of the provision that the full text of a proposed amendment be published in a newspaper of general circulation is to acquaint the voters, before they enter the polling booths, as to the contents of measures submitted. Cook v. Baker, 121 Colo. 187, 214 P.2d 787 (1950).

And to require that the text of an amendment or a substantial portion thereof be again printed on the official ballot, is contrary to all precedent, could serve no useful purpose, and was not within the contemplation of the general assembly. Cook v. Baker, 121 Colo. 187, 214 P.2d 787 (1950).

The timely publication of a constitutional amendment in 62 counties of the state, with only five days' delay in the sixty-third county and that without fault of either the proponents of the amendment or of the secretary of state, is a substantial compliance with the requirement of the statute. Yenter v. Baker, 126 Colo. 232, 248 P.2d 311 (1952).

And where publication was in compliance with the provisions of the section, the supreme court makes no determination as to the validity of the statutory provisions requiring such

publication. Yenter v. Baker, 126 Colo. 232, 248 P.2d 311 (1952).

III. NEWSPAPERS OF GENERAL CIRCULATION.

The phrase "newspaper of general circulation in each county" means that an amendment must be published in one newspaper in each county in the state, which is published, and has a general circulation, in that county. In re House Resolution No. 10, 50 Colo. 71, 114 P. 293 (1911).

The phrase "general circulation" is descriptive of the character of the newspaper. In re House Resolution No. 10, 50 Colo. 71, 114 P. 293 (1911).

And it must be one of general, not special, or limited circulation. In re House Resolution No. 10, 50 Colo. 71, 114 P. 293 (1911).

The newspaper may not be a mere advertising sheet, or a newspaper restricted or devoted to some particular trade or calling, or branch of industry. In re House Resolution No. 10, 50 Colo. 71, 114 P. 293 (1911).

1-40-124.5. Ballot information booklet.

(1) (a) The director of research of the legislative council of the general assembly shall prepare a ballot information booklet for any initiated or referred constitutional amendment or legislation, including a question, as defined in section 1-41-102 (3), in accordance with section 1 (7.5) of article V of the state constitution.

(b) The director of research of the legislative council of the general assembly shall prepare a fiscal impact statement for every initiated or referred measure, taking into consideration fiscal impact information submitted by the office of state planning and budgeting, the department of local affairs or any other state agency, and any proponent or other interested person. The fiscal impact statement prepared for every measure must be substantially similar in form and content to the fiscal notes provided by the legislative council of the general assembly for legislative measures pursuant to section 2-2-322. A complete copy of the fiscal impact statement for the measure must be available through the legislative council of the general assembly. The ballot information booklet must indicate whether there is a fiscal impact for each initiated or referred measure and must abstract the fiscal impact statement for the measure. The abstract for every measure must appear after the arguments for and against the measure in the analysis section of the ballot information booklet and must include, but is not limited to:

(I) An estimate of the effect the measure will have on state and local government revenues, expenditures, taxes, and fiscal liabilities if such measure is enacted;

(II) An estimate of the amount of any state and local government recurring expenditures or fiscal liabilities if such measure is enacted;

(III) For any initiated or referred measure that modifies the state tax laws, if the measure would either increase or decrease individual income tax revenue or state sales tax revenue, a table that shows the number of tax filers in each income category, the total change in the amount of tax owed for each income category, and the average change in the amount of tax owed for each filer within each income category. If the change in the amount of tax owed shown in the table is an increase, the change must be expressed as a dollar amount preceded by a plus sign. If the change in the amount of tax owed shown in the table is a decrease, the change must be expressed as a dollar amount preceded by a negative sign. The table must use the following income categories:

(A) Federal adjusted gross income of fourteen thousand nine hundred ninety-nine dollars or less;

(B) Federal adjusted gross income greater than or equal to fifteen thousand dollars and less than thirty thousand dollars;

(C) Federal adjusted gross income greater than or equal to thirty thousand dollars and less than forty thousand dollars;

(D) Federal adjusted gross income greater than or equal to forty thousand dollars and less than fifty thousand dollars;

(E) Federal adjusted gross income greater than or equal to fifty thousand dollars and less than seventy thousand dollars;

(F) Federal adjusted gross income greater than or equal to seventy thousand dollars and less than one hundred thousand dollars;

(G) Federal adjusted gross income greater than or equal to one hundred thousand dollars and less than one hundred fifty thousand dollars;

(H) Federal adjusted gross income greater than or equal to one hundred fifty thousand dollars and less than two hundred thousand dollars;

(I) Federal adjusted gross income greater than or equal to two hundred thousand dollars and less than two hundred fifty thousand dollars;

(J) Federal adjusted gross income greater than or equal to two hundred fifty thousand dollars and less than five hundred thousand dollars;

(K) Federal adjusted gross income greater than or equal to five hundred thousand dollars and less than one million dollars; and

(L) Federal adjusted gross income greater than or equal to one million dollars;

(IV) If the measure contains a proposed tax change, as defined in section 1-40-106 (3)(i)(II), that reduces state tax revenue, a description of the measure's likely effect on the three largest areas of program expenditure, as defined in section 1-40-106 (3)(i)(I);

(V) For an initiated measure that will result in increased state expenditures, except for de minimis and administrative expenditures, and that does not identify and provide for a sufficient source of revenue or sufficient reductions in state spending to account for the increased expenditures, a description of the measure's likely effect on the three largest areas of program expenditure, as defined in section 1-40-106 (3)(i)(I); and

(VI) For an initiated measure that requires existing revenue sources to be reallocated and spent in a particular way, a description of the measure's likely effect on the three largest areas of program expenditure, as defined in section 1-40-106 (3)(i)(I).

(c) Repealed.

(d) The director of research of the legislative council of the general assembly may update the initial fiscal impact statement prepared in accordance with section 1-40-105.5 when preparing the fiscal impact statement required by this subsection (1).

(e) When preparing the fiscal impact statement required by this subsection (1) for a measure that includes a proposed tax increase, the director of research of the legislative council of the general assembly shall, pursuant to section 20 (3)(b)(III) of article X of the state constitution, include an estimate of the maximum dollar amount of both:

(I) The change in state and local government revenue and fiscal year spending, as defined in section 20 (2)(e) of article X of the state constitution, for the first full fiscal year of the proposed tax increase; and

(II) State and local government fiscal year spending, as defined in section 20 (2)(e) of article X of the state constitution, without the proposed tax increase.

(f) When preparing the fiscal impact statement required by this subsection (1), the director of research of the legislative council of the general assembly shall include the information required in the abstract as set forth in subsections (1)(b)(V) and (1)(b)(VI) of this section.

(1.5) The executive committee of the legislative council of the general assembly is responsible for providing the fiscal information on any ballot issue that must be included in the ballot information booklet pursuant to section 1 (7.5)(c) of article V of the state constitution and shall consider the fiscal impact statement required by subsection (1) of this section in doing so.

(1.7) (a) After receiving written comments from the public in accordance with section 1 (7.5)(a)(II) of article V of the state constitution, but before the draft of the ballot information booklet is finalized, the director of research of the legislative council of the general assembly shall conduct a public meeting at which the director and other members of the legislative staff

have the opportunity to ask questions that arise in response to the written comments. The director may modify the draft of the booklet in response to comments made at the hearing. The legislative council may modify the draft of the booklet upon the two-thirds affirmative vote of the members of the legislative council.

(b) (I) Each person submitting written comments in accordance with section 1 (7.5)(a)(II) of article V of the state constitution shall provide the person's name and the name of any organization the person represents or is affiliated with for purposes of making the comments.

(II) Each analysis section of the ballot information booklet must include an explanation of how to access information from the secretary of state about issue committees that support or oppose the measures on the ballot and the website address to access this information.

(2) Following completion of the ballot information booklet, the director of research shall arrange for its distribution to every residence of one or more active registered electors in the state. Distribution may be accomplished by such means as the director of research deems appropriate to comply with section 1 (7.5) of article V of the state constitution, including, but not limited to, mailing the ballot information booklet to electors and insertion of the ballot information booklet in newspapers of general circulation in the state. The distribution shall be performed pursuant to a contract or contracts bid and entered into after employing standard competitive bidding practices including, but not limited to, the use of requests for information, requests for proposals, or any other standard vendor selection practices determined to be best suited to selecting an appropriate means of distribution and an appropriate contractor or contractors. The executive director of the department of personnel shall provide such technical advice and assistance regarding bidding procedures as deemed necessary by the director of research.

(3) (a) There is established in the state treasury the ballot information publication and distribution revolving fund. The general assembly shall appropriate money to the fund each year in the annual general appropriation act. All interest earned on the investment of money in the fund is credited to the fund. Money in the fund is continuously appropriated to the legislative council of the general assembly to pay the costs of publishing the text and title of each constitutional amendment, each initiated or referred measure, or part of a measure, and the text of a referred or initiated question arising under section 20 of article X of the state constitution, as defined in section 1-41-102 (3), in at least one legal publication of general circulation in each county of the state, as required by section 1-40-124, and the costs of distributing the ballot information booklet, as required by subsection (2) of this section. Any money credited to the fund and unexpended at the end of any given fiscal year remains in the fund and does not revert to the general fund.

(b) to (e) (Deleted by amendment, L. 2026.)

Source: L. 94: Entire section added, p. 1688, § 2, effective January 19, 1995. **L. 96:** (2) amended, p. 1511, § 35, effective July 1. **L. 97:** (3) added, p. 384, § 1, effective April 19. **L. 2000:** (1) and (3) amended and (1.5) added, p. 298, § 4, effective August 2; (1) amended, p. 1623, § 8, effective August 2. **L. 2001:** (1) amended, p. 223, § 1, effective August 8. **L. 2004:** (3) amended, p. 410, § 3, effective April 8. **L. 2005:** (3)(a) amended, p. 759, § 6, effective June 1; (1)(c) repealed and (1.7) added, p. 1371, §§ 2, 1, effective June 6. **L. 2007:** (3)(b) amended, p. 2124, § 2, effective April 11. **L. 2008:** (3)(b) amended, p. 2325, § 2, effective April 7. **L. 2009:** (3)(c) added, (SB 09-224), ch. 441, p. 2445, § 2, effective March 20. **L. 2010:** (3)(d) added, (HB 10-1367), ch. 430, p. 2240, § 2, effective April 15; (3)(e) added, (HB 10-1210), ch. 352, p. 1639, § 14, effective August 11; (1.7) amended, (HB 10-1370), ch. 270, p. 1240, § 3, effective January 1, 2011. **L. 2015:** (1)(d) added, (HB 15-1057), ch. 198, p. 679, § 6, effective March 26, 2016. **L. 2021:** IP(1)(b), (1)(b)(II), and (1)(b)(III) amended and (1)(b)(IV) added, (HB 21-1321), ch. 474, p. 3397, § 4, effective July 7. **Referred 2022:** IP(1)(b)(III) amended, Proposition GG, (SB 22-222), ch. 508, p. 4277, § 4, effective upon proclamation of the Governor, December 27, 2022. See L. 2023, p. 3636. **L. 2025:** (1)(e) added and (1.5) amended, (HB 25-1327), ch. 446, p. 2566, § 6, effective June 4. **L. 2026:** IP(1)(b), (1)(b)(III)(L), and (1)(b)(IV) amended and (1)(b)(V), (1)(b)(VI), and (1)(f) added, (HB 26-1084), ch. 349, p. 2115, § 2, effective June 3; (1.7)(b) and (3) amended, (HB 26-1293), ch. 102, p. 407, § 1, effective August 12.

Editor's note: (1) Section 5 of chapter 284, Session Laws of Colorado 1994, provided that the act enacting this section was effective on the date of the proclamation of the Governor announcing the approval, by the registered electors of the state, of Senate Concurrent Resolution 94-005, enacted at the Second Regular Session of the Fifty-ninth General Assembly. The date of the proclamation of the Governor announcing the approval of Senate Concurrent Resolution 94-005 was January 19, 1995.

(2) Amendments to subsection (1) by Senate Bill 00-172 and House Bill 00-1304 were harmonized.

(3) This section was amended by SB 22-222. That bill contained a referendum clause and was approved by a vote of the registered electors of the state of Colorado on November 8, 2022. The amended version of this section took effect upon the proclamation of the Governor, December 27, 2022. The vote count for the measure was as follows:

YES: 1,704,757

NO: 665,476

Cross references: (1) For the legislative declaration in the 2010 act amending subsection (1.7), see section 1 of chapter 270, Session Laws of Colorado 2010.

(2) For the short title ("Ballot Measure Fiscal Transparency Act of 2021") in HB 21-1321, see section 1 of chapter 474, Session Laws of Colorado 2021.

1-40-125. Mailing to electors.

(1) The requirements of this section shall apply to any ballot issue involving a local government matter arising under section 20 of article X of the state constitution, as defined in section 1-41-103 (4), for which notice is required to be mailed pursuant to section 20 (3)(b) of article X of the state constitution. A mailing is not required for a ballot issue that does not involve a local government matter arising under section 20 of article X of the state constitution, as defined in section 1-41-103 (4).

(2) Thirty days before a ballot issue election, political subdivisions shall mail at the least cost and as a package where districts with ballot issues overlap, a titled notice or set of notices addressed to "all registered voters" at each address of one or more active registered electors. Except for voter-approved additions, notices shall include only:

(a) The election date, hours, ballot title, text, and local election office address and telephone number;

(b) For proposed district tax or bonded debt increases, the estimated or actual total of district fiscal year spending for the current year and each of the past four years, and the overall percentage and dollar change;

(c) For the first full fiscal year of each proposed political subdivision tax increase, district estimates of the maximum dollar amount of each increase and of district fiscal year spending without the increase;

(d) For proposed district bonded debt, its principal amount and maximum annual and total district repayment cost, and the principal balance of total current district bonded debt and its maximum annual and remaining local district repayment cost;

(e) Two summaries, up to five hundred words each, one for and one against the proposal, of written comments filed with the election officer by thirty days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the proposal. Petition representatives following these rules shall write this summary for their petition. The election officer shall maintain and accurately summarize all other relevant written comments.

(3) The provisions of this section shall not apply to a ballot issue that is subject to the provisions of section 1-40-124.5.

Source: L. 93: Entire article amended with relocations, p. 692, § 1, effective May 4; (1) amended, p. 1437, § 128, effective July 1. **L. 2000:** (1) and IP(2) amended and (3) added, p. 299, § 5, effective August 2.

1-40-126. Explanation of effect of "yes/for" or "no/against" vote included in notices provided by mailing or publication.

In any notice to electors provided by the director of research of the legislative council, whether by mailing pursuant to section 1-40-124.5 or publication pursuant to section 1-40-124, there shall be included the following explanation preceding any information about individual ballot issues: "A 'yes/for' vote on any ballot issue is a vote in favor of changing current law or existing circumstances, and a 'no/against' vote on any ballot issue is a vote against changing current law or existing circumstances."

Source: L. 93: Entire article amended with relocations, p. 692, § 1, effective May 4. **L. 2000:** Entire section amended, p. 299, § 6, effective August 2. **L. 2012:** Entire section amended, (HB 12-1089), ch. 70, p. 243, § 4, effective January 1, 2013.

Editor's note: This section is similar to former § 1-40-114 (3), which was added by House Bill 93-1155. (See L. 93, p. 266.)

Cross references: For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 70, Session Laws of Colorado 2012.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

The facts upon which depend the question whether an amendment proposed to the constitution has received the approval of the people will be judicially noticed and the court will resort to all sources of information which may afford satisfactory evidence upon the question. Harrison v. People ex rel. Whatley, 57 Colo. 137, 140 P. 203 (1914).

1-40-126.5. Explanation of ballot titles and actual text of measures in notices provided by mailing or publication.

(1) In any notice to electors provided by the director of research of the legislative council, whether in the ballot information booklet prepared pursuant to section 1-40-124.5 or by publication pursuant to section 1-40-124, there shall be included the following explanation preceding the title of each measure:

(a) For referred measures: "The ballot title below is a summary drafted by the professional legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the (Colorado constitution/Colorado Revised Statutes). The text of the measure that will appear in the (Colorado constitution/Colorado Revised Statutes) below was referred to the voters because it passed by a (two-thirds majority/majority) vote of the state senate and the state house of representatives."

(b) For initiated measures: "The ballot title below is a summary drafted by the professional staff of the offices of the secretary of state, the attorney general, and the legal staff for the general assembly for ballot purposes only. The ballot title will not appear in the (Colorado constitution/Colorado Revised Statutes). The text of the measure that will appear in the (Colorado constitution/Colorado Revised Statutes) below was drafted by the proponents of the initiative. The initiated measure is included on the ballot as a proposed change to current law because the proponents gathered the required amount of petition signatures."

Source: L. 2011: Entire section added, (HB 11-1035), ch. 25, p. 63, § 1, effective March 17.

1-40-127. Ordinances - effective, when - referendum. (Repealed)

Source: L. 93: Entire article amended with relocations, p. 692, § 1, effective May 4. **L. 95:** Entire section repealed, p. 437, § 19, effective May 8.

Cross references: For current provisions relating to municipal government ordinances, their effective dates, and related referendums, see § 31-11-105.

1-40-128. Ordinances, how proposed - conflicting measures. (Repealed)

Source: L. 93: Entire article amended with relocations, p. 693, § 1, effective May 4. **L. 95:** Entire section repealed, p. 438, § 20, effective May 8.

Cross references: For current provisions relating to proposing municipal government ordinances and conflicting measures, see § 31-11-104.

1-40-129. Voting on ordinances. (Repealed)

Source: L. 93: Entire article amended with relocations, p. 694, § 1, effective May 4. **L. 95:** Entire section repealed, p. 438, § 21, effective May 8.

1-40-130. Unlawful acts - penalty.

(1) It is unlawful:

(a) For any person willfully and knowingly to circulate or cause to be circulated or sign or procure to be signed any petition bearing the name, device, or motto of any person, organization, association, league, or political party, or purporting in any way to be endorsed, approved, or submitted by any person, organization, association, league, or political party, without the written consent, approval, and authorization of the person, organization, association, league, or political party;

(b) For any person to sign any name other than his or her own to any petition or knowingly to sign his or her name more than once for the same measure at one election;

(c) For any person to knowingly sign any petition who is not a registered elector at the time of signing the same;

(d) For any person to sign any affidavit as circulator without knowing or reasonably believing the statements made in the affidavit to be true;

(e) For any person to certify that an affidavit attached to a petition was subscribed or sworn to before him or her unless it was so subscribed and sworn to before him or her and unless the person so certifying is duly qualified under the laws of this state to administer an oath;

(f) For any officer or person to do willfully, or with another or others conspire, or agree, or confederate to do, any act which hinders, delays, or in any way interferes with the calling, holding, or conducting of any election permitted under the initiative and referendum powers reserved by the people in section 1 of article V of the state constitution or with the registering of electors therefor;

(g) For any officer to do willfully any act which shall confuse or tend to confuse the issues submitted or proposed to be submitted at any election, or refuse to submit any petition in the form presented for submission at any election;

(h) For any officer or person to violate willfully any provision of this article;

(i) For any person to pay money or other things of value to a registered elector for the purpose of inducing the elector to withdraw his or her name from a petition for a ballot issue;

(j) For any person to certify an affidavit attached to a petition in violation of section 1-40-111 (2)(b)(I);

(k) For any person to sign any affidavit as a circulator, unless each signature in the petition section to which the affidavit is attached was affixed in the presence of the circulator;

(l) For any person to circulate in whole or in part a petition section, unless such person is the circulator who signs the affidavit attached to the petition section.

(2) Any person, upon conviction of a violation of any provision of this section, shall be punished by a fine of not more than one thousand five hundred dollars, or by imprisonment for not more than one year in the county jail, or by both such fine and imprisonment.

Source: L. 93: Entire article amended with relocations, p. 694, § 1, effective May 4. **L. 2009:** (1)(h) and (2) amended and (1)(i), (1)(j), (1)(k), and (1)(l) added, (HB 09-1326), ch. 258, p. 1178, § 16, effective May 15.

Editor's note: Subsection (1) is similar to former § 1-40-118 (2), and subsection (2) is similar to former § 1-40-118 (3), as they existed prior to 1993.

ANNOTATION

Annotator's note. The following annotations include cases decided under former provisions similar to this section.

It is clear from the provisions of the initiative and referendum act and the penalties provided thereby that the general assembly has been careful and diligent to safeguard the primary right of the people to propose and enact their own legislation. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

And the initiative and referendum laws, when invoked by the people, supplant the city council or representative body. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

Because the people undertake to legislate for themselves. City of Rocky

Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

And the town or city clerk is required to perform certain statutory duties, in connection therewith, for failure of which he is subject to penalties. City of Rocky Ford v. Brown, 133 Colo. 262, 293 P.2d 974 (1956).

1-40-131. Tampering with initiative or referendum petition.

Any person who willfully destroys, defaces, mutilates, or suppresses any initiative or referendum petition or who willfully neglects to file or delays the delivery of the initiative or referendum petition or who conceals or removes any initiative or referendum petition from the possession of the person authorized by law to have the custody thereof, or who adds, amends, alters, or in any way changes the information on the petition as provided by the elector, or who aids, counsels, procures, or assists any person in doing any of said acts upon conviction shall be punished as provided in section 1-13-111. The language in this section does not preclude a circulator from striking a complete line on the petition if the circulator believes the line to be invalid.

Source: L. 93: Entire article amended with relocations, p. 695, § 1, effective May 4. **L. 2021:** Entire section amended, (SB 21-271), ch. 462, p. 3132, § 49, effective March 1, 2022.

Editor's note: This section is similar to former § 1-40-118.5 as it existed prior to 1993.

1-40-132. Enforcement.

(1) The secretary of state is charged with the administration and enforcement of the provisions of this article relating to initiated or referred measures and state constitutional amendments. The secretary of state shall have the authority to promulgate rules as may be necessary to administer and enforce any provision of this article that relates to initiated or referred measures and state constitutional amendments. The secretary of state may conduct a hearing, upon a written complaint by a registered elector, on any alleged violation of the provisions relating to the circulation of a petition, which may include but shall not be limited to the preparation or signing of an affidavit by a circulator. If the secretary of state, after the hearing, has reasonable cause to believe that there has been a violation of the provisions of this article relating to initiated or referred measures and state constitutional amendments, he or she shall notify the attorney general, who may institute a criminal prosecution. If a circulator is found to have violated any provision of this article or is otherwise shown to have made false or

misleading statements relating to his or her section of the petition, such section of the petition shall be deemed void.

(2) (Deleted by amendment, L. 95, p. 439, § 22, effective May 8, 1995.)

Source: L. 93: Entire article amended with relocations, p. 695, § 1, effective May 4. **L. 95:** Entire section amended, p. 439, § 22, effective May 8.

Editor's note: Subsection (1) is similar to former § 1-40-119 as it existed prior to 1993.

ANNOTATION

Subsection (1) is inapplicable to determination whether a petition has a sufficient number of valid signatures to qualify for placement of an initiated measure on the ballot. Read in context, subsection (1) addresses violations that involve criminal culpability. The administrative hearing required by subsection (1) is applicable to general proceedings regarding a sufficiency determination. Fabec v. Beck, 922 P.2d 330 (Colo. 1996).

1-40-133. Retention of petitions.

After a period of three years from the time of submission of the petitions to the secretary of state, if it is determined that the retention of the petitions is no longer necessary, the secretary of state may destroy the petitions.

Source: L. 93: Entire article amended with relocations, p. 696, § 1, effective May 4. **L. 95:** Entire section amended, p. 439, § 23, effective May 8.

1-40-134. Withdrawal of initiative petition.

The designated representatives of the proponents of an initiative petition may withdraw the petition from consideration as a ballot issue by filing a letter with the secretary of state requesting that the petition not be placed on the ballot. The letter shall be signed and acknowledged by both designated representatives before an officer authorized to take acknowledgments and shall be filed no later than sixty days prior to the election at which the initiative is to be voted upon.

Source: L. 98: Entire section added, p. 632, § 1, effective May 6. **L. 2009:** Entire section amended, (HB 09-1326), ch. 258, p. 1179, § 17, effective May 15.

1-40-135. Petition entities - requirements - definition.

(1) As used in this section, "petition entity" means any person or issue committee that directly or indirectly provides compensation to a circulator to circulate a ballot petition.

(2) (a) It is unlawful for any petition entity to provide compensation to a circulator to circulate a petition without first obtaining a license therefor from the secretary of state. The secretary of state may deny a license if the secretary finds that the petition entity or any of its principals have been found, in a judicial or administrative proceeding, to have violated the petition laws of Colorado or any other state; to have been convicted in Colorado or any other state of election fraud, any other election offense, or an offense with an element of fraud; or to have knowingly contracted with a petition entity, or the principal of a petition entity, that has been found, in a judicial or administrative proceeding, to have authorized or knowingly permitted any of the acts set forth in subsection (2)(c) of this section. The secretary of state shall deny a license:

(I) Repealed.

(II) If no current representative of the petition entity has completed the training related to potential fraudulent activities in petition circulation, as established by the secretary of state, pursuant to section 1-40-112 (3).

(b) Repealed.

(c) The secretary of state shall revoke the petition entity license if, at any time after receiving a license, a petition entity is determined to no longer be in compliance with the requirements set forth in subsection (2)(a) of this section or if the petition entity authorized or knowingly permitted:

(I) Forgery of a registered elector's signature;

(II) Circulation of a petition section, in whole or part, by anyone other than the circulator who signs the affidavit attached to the petition section;

(III) Use of a false circulator name or address in the affidavit;

(IV) Payment of money or other things of value to any person for the purpose of inducing the person to sign or withdraw his or her name from the petition; or

(V) Repealed.

(VI) A notary public's notarization of a petition section outside of the presence of the circulator or without the production of the required identification for notarization of a petition section.

(d) The secretary of state shall revoke the petition entity license, if, at any time after receiving a license, a petition entity is determined to have knowingly contracted with a petition entity that violated a provision of subsections (2)(c)(I) to (2)(c)(VI) of this section.

(3) (a) Any procedures by which alleged violations involving petition entities are heard and adjudicated shall be governed by the "State Administrative Procedure Act", article 4 of title 24. If a complaint is filed with the secretary of state pursuant to section 1-40-132 (1) alleging that a petition entity was not licensed when it compensated any circulator, the secretary may use information that the entity is required to produce pursuant to section 1-40-121 and any other information to which the secretary may reasonably gain access, including documentation produced pursuant to subsection (2)(b) of this section, at a hearing. After a hearing is held, if a violation is determined to have occurred, such petition entity shall be fined by the secretary in an amount not to exceed one hundred dollars per circulator for each day that the named individual or individuals circulated petition sections on behalf of the unlicensed petition entity. If the secretary finds that a petition entity violated a provision of subsection (2)(c) of this section, the secretary may fine the petition entity in an amount not to exceed five thousand dollars and shall revoke the entity's license for not less than one year or more than two years. Upon finding any subsequent violation of a provision of subsection (2)(c) of this section, the secretary may fine the petition entity in an amount not to exceed five thousand dollars and shall revoke the petition entity's license for not less than two years or more than three years. The secretary shall consider all circumstances surrounding the violations in fixing the length of the revocations.

(b) A petition entity whose license has been revoked may apply for reinstatement to be effective upon expiration of the term of revocation.

(c) In determining whether to reinstate a license, the secretary may consider:

(I) The entity's ownership by, employment of, or contract with any person who served as a director, officer, owner, or principal of a petition entity whose license was revoked, the role of such individual in the facts underlying the prior license revocation, and the role of such individual in a petition entity's post-revocation activities; and

(II) Any other facts the entity chooses to present to the secretary, including but not limited to remedial steps, if any, that have been implemented to avoid future acts that would violate this article.

(4) The secretary of state shall issue a decision on any application for a new or reinstated license within ten business days after a petition entity files an application, which application shall be on a form prescribed by the secretary. No license shall be issued without payment of a nonrefundable license fee to the secretary of state, which license fee shall be determined and

collected pursuant to section 24-21-104 (3), C.R.S., to cover the cost of administering this section.

(5) (a) A licensed petition entity shall register with the secretary of state by providing to the secretary of state:

(I) The proposed measure number for which a petition will be circulated by circulators coordinated or paid by the petition entity;

(II) The current name, address, telephone number, and electronic mail address of the petition entity; and

(III) The name and signature of the designated agent of the petition entity for the proposed measure.

(b) A petition entity shall notify the secretary of state within twenty days of any change in the information submitted pursuant to paragraph (a) of this subsection (5).

Source: L. 2009: Entire section added, (HB 09-1326), ch. 258, p. 1179, § 18, effective May 15. **L. 2011:** (3)(a) amended, (HB 11-1072), ch. 255, p. 1106, § 7, effective August 10. **L. 2018:** (2)(b) and (2)(c)(V) repealed and IP(2)(c) and (2)(c)(IV) amended, (HB 18-1145), ch. 113, p. 808, § 5, effective August 8. **L. 2021:** (1) and IP(2)(a) amended, (2)(a)(I) repealed, and (2)(d) added, (SB 21-250), ch. 282, p. 1670, § 75, effective June 21. **L. 2023:** IP(2)(a), (3)(a), and (5)(a)(I) amended, (SB 23-276), ch. 399, p. 2393, § 45, effective June 6.

Cross references: (1) For the legislative declaration in the 2011 act amending subsection (3)(a), see section 1 of chapter 255, Session Laws of Colorado 2011.

(2) For the legislative declaration in HB 18-1145, see section 1 of chapter 113, Session Laws of Colorado 2018.

ANNOTATION

Licensing requirement in subsection (2)(a) and (2)(c) does not give the secretary of state unbridled discretion, the statute is content neutral, and the statute places limits on the time within which the secretary must act, therefore, the licensing requirement is not an unconstitutional prior restraint on first amendment rights. The state has an interest in the regulation of the initiative process to ensure it is fair and honest. Independence Inst. v. Gessler, 869 F. Supp. 2d 1289 (D. Colo. 2012).

Subsection (3)(a) regarding petition violation procedures does not violate the first amendment. Independence Inst. v.

Gessler, 869 F. Supp. 2d 1289 (D. Colo. 2012).

The limitation in § 1-40-112 (4) on per-signature compensation for petition circulators violates the first amendment of the United States constitution. Section 1-40-112 (4) will deter most itinerant professionals from working in the state; eliminate low-volume professional circulators; and significantly increase the costs of a signature-gathering campaign. Independence Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The cost increase associated with § 1-40-112 (4) is likely to lower the chances of underfunded proponents succeeding in the initiative and referendum process. Independence Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The effect of § 1-40-112 (4) will be the exclusion from the initiative process of those who, through experience and self-selection, are the most efficient and effective circulators. Independence Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

To the extent § 1-40-112 (4) prevents proponents from using individuals who would most effectively convey their message to the public, the statute places a substantial burden on the proponents' first amendment rights, even if the statute only restricts proponents from using some, but not all, circulators. Independence Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

Given the availability of other effective and less burdensome statutory tools to safeguard the state's interest in reducing fraud and the number of invalid petition signatures, § 1-40-112 (4) poses an undue restriction on first amendment rights. Independence Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

The secretary of state is permanently enjoined from enforcing § 1-40-112 (4) and any ancillary statute that enforces § 1-40-112 (4), namely, this section and § 1-40-121 to the extent that those sections apply to the restriction on per-signature compensation found in § 1-40-112 (4). Independence Inst. v. Gessler, 936 F. Supp. 2d 1256 (D. Colo. 2013).

1-40-136. Bills enacted in the second regular session of the seventy-second general assembly that include an act subject to petition clause - legislative declaration. (Repealed)

Source: L. 2020: Entire section added, (SB 20-209), ch. 227, p. 1109, § 1, effective July 2. **L. 2024:** Entire section repealed, (SB 24-210), ch. 468, p. 3259, § 48, effective June 6.

ODD-YEAR ELECTIONS

ARTICLE 41

Odd-numbered Year Elections

1-41-101. Legislative declaration.

1-41-102. State ballot issue elections in odd-numbered years.

1-41-103. Local ballot issue elections in odd-numbered years.

1-41-101. Legislative declaration.

The general assembly hereby finds, determines, and declares that section 20 of article X of the state constitution requires that a ballot issue election be held on the first Tuesday in November of odd-numbered years; that the provisions of section 20 (2) and 20 (3) of said article X are unclear as to what issues can be submitted to a vote in the odd-year election; that section 20 of article X did not amend preexisting provisions of the state constitution on the initiative, the referendum, and the submission of constitutional amendments by the general assembly, and repeal or amendment of such provisions by implication is not presumed; that this legislation implements section 20 of article X of the state constitution, which article is entitled "Revenue" and concerns exclusively government revenue raising and appropriations; that section 20 of article X requires public votes on additional government taxes, spending, or debt; that the language of section 20 of article X evinces the public's desire to have more opportunity to vote on government tax, spending, and debt proposals; that a construction of section 20 of article X that limits local government electors' opportunities to vote on tax, spending, debt, or other proposals would be inconsistent with the ballot title of and the voters' intention in adopting said amendment; that state and local election officials need guidance as to how to administer the November 1993 election; and that, in view of the issues set out in this section, the general assembly should exercise its legislative power to resolve the ambiguities in section 20 of article X in a manner consistent with its terms.

Source: L. 93: Entire article added, p. 1993, § 1, effective June 8.

ANNOTATION

Interpretations of § 20 of article X of the state constitution which would limit the right of the electorate to vote on tax, spending, debt, or other proposals are not favored. Havens v. Bd. of County Comm'rs, 924 P.2d 517 (Colo. 1996).

1-41-102. State ballot issue elections in odd-numbered years.

(1) At the statewide election to be held on the first Tuesday of November in 1993, and in each odd-numbered year thereafter, the following issues shall appear on the ballot if they concern state matters arising under section 20 of article X of the state constitution and if they are submitted in accordance with applicable law:

(a) Amendments to the state constitution submitted by the general assembly in accordance with article XIX of the state constitution;

(b) State legislation and amendments to the state constitution initiated in accordance with section 1 of article V of the state constitution and article 40 of this title;

(c) Measures referred to the people by the general assembly in accordance with section 1 of article V of the state constitution;

(d) Measures referred to the people pursuant to petitions filed against an act or item, section, or part of an act of the general assembly in accordance with section 1 of article V of the state constitution;

(e) Questions which are referred to the people by the general assembly in accordance with the law prescribing procedures therefor;

(f) Questions which are initiated by the people in accordance with the law prescribing procedures therefor.

(2) If no questions concerning state matters arising under section 20 of article X of the state constitution are referred or initiated as provided in subsection (1) of this section, no statewide election shall be held on the first Tuesday of November in 1993, or on the first Tuesday in November of any subsequent odd-numbered year.

(3) As used in this section, a "question" means a proposition which is in the form of a question meeting the requirements of section 20 (3)(c) of article X of the state constitution and which is submitted in accordance with the law prescribing procedures therefor without reference to specific state legislation or a specific amendment to the state constitution.

(4) As used in this section, "state matters arising under section 20 of article X of the state constitution" includes:

(a) Approval of a new tax, tax rate increase, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain pursuant to section 20 (4)(a) of article X of the state constitution;

(b) Approval of the creation of any multiple-fiscal year direct or indirect state debt or other financial obligation without adequate present cash reserves pledged irrevocably and held for

payments in all future fiscal years pursuant to section 20 (4)(b) of article X of the state constitution;

(c) Approval of emergency taxes pursuant to section 20 (6) of article X of the state constitution;

(d) Approval of revenue changes pursuant to section 20 (7) of article X of the state constitution;

(e) Approval of a delay in voting on ballot issues pursuant to section 20 (3)(a) of article X of the state constitution;

(f) Approval of the weakening of a state limit on revenue, spending, and debt pursuant to section 20 (1) of article X of the state constitution; and

(g) Approval for the state to retain and spend state revenues that otherwise would be refunded for exceeding an estimate included in the ballot information booklet in accordance with section 20 (3)(c) of article X of the state constitution.

Source: L. 93: Entire article added, p. 1994, § 1, effective June 8. **L. 2015:** (4)(f) amended and (4)(g) added, (HB 15-1367), ch. 271, p. 1073, § 9, effective June 4.

Cross references: For the legislative declaration in HB 15-1367, see section 1 of chapter 271, Session Laws of Colorado 2015.

ANNOTATION

Board had the authority to set a title, ballot title and submission clause, and summary for the proposed constitutional amendment at issue, but the question of the board's jurisdiction to set titles for a ballot issue in an odd-numbered year was premature, as the secretary of state, not the board, has the authority to place measures on the ballot. Matter of Election Reform Amendment, 852 P.2d 28 (Colo. 1993).

1-41-103. Local ballot issue elections in odd-numbered years.

(1) At the local election to be held on the first Tuesday of November in 1993, and in each odd-numbered year thereafter, the following issues shall appear on the ballot if they concern local government matters arising under section 20 of article X of the state constitution and if they are submitted in accordance with applicable law:

(a) Amendments to the charter of any home rule city or home rule county initiated by the voters or submitted by the legislative body of the home rule city or county in accordance with said charter;

(b) Ordinances, resolutions, or franchises proposed in accordance with section 1 of article V of the state constitution and section 31-11-104, C.R.S.;

(c) Measures referred to the people pursuant to petitions filed against an ordinance, resolution, or franchise passed by the legislative body of any local government in accordance with section 1 of article V of the state constitution and section 31-11-105, C.R.S.;

(d) Questions which are referred to the people by the governing body of the local government in accordance with the law prescribing procedures therefor;

(e) Questions which are initiated by the people in accordance with the law prescribing procedures therefor.

(2) As used in this section, "local government" means a county, a municipality as defined in section 31-1-101 (6), C.R.S., a school district, or a special district as defined in sections 32-1-103 (20) and 35-70-109, C.R.S.

(3) As used in this section, a "question" means a proposition which is in the form of a question meeting the requirements of section 20 (3)(c) of article X of the state constitution and which is submitted in accordance with the law prescribing procedures therefor without reference to a specific ordinance, resolution, franchise, or other local legislation or a specific amendment to the charter of a home rule city or home rule county.

(4) As used in this section, "local government matters arising under section 20 of article X of the state constitution" includes:

(a) Approval of a new tax, tax rate increase, mill levy above that for the prior year, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain pursuant to section 20 (4)(a) of article X of the state constitution;

(b) Approval of the creation of any multiple-fiscal year direct or indirect debt or other financial obligation without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years pursuant to section 20 (4)(b) of article X of the state constitution;

(c) Approval of emergency taxes pursuant to section 20 (6) of article X of the state constitution;

(d) Approval of revenue changes pursuant to section 20 (7) of article X of the state constitution;

(e) Approval of a delay in voting on ballot issues pursuant to section 20 (3)(a) of article X of the state constitution;

(f) Approval of the weakening of a local limit on revenue, spending, and debt pursuant to section 20 (1) of article X of the state constitution.

(5) The submission of issues at elections in November of odd-numbered years in accordance with this section, or at other elections as provided in section 20 (3)(a) of article X of the state constitution, shall not be deemed the exclusive method of submitting local issues to a vote of the people, and nothing in this section shall be construed to repeal, diminish, or otherwise affect in any way the authority of local governments to hold issue elections in accordance with other provisions of law.

(6) and (7) Repealed.

Source: L. 93: Entire article added, p. 1995, § 1, effective June 8. **L. 94:** (1)(b) and (1)(c) amended, p. 1622, § 6, effective May 31. **L. 95:** (1)(b) and (1)(c) amended, p. 439, § 24, effective May 8. **L. 2001:** (6) and (7) added, p. 273, § 31, effective March 30. **L. 2010:** (6) and (7) repealed, (HB 10-1116), ch. 194, p. 840, § 29, effective May 5.

ANNOTATION

Proposed amendments to home-rule charters and local initiated or referred measures concerning issues arising under the provisions of article X, § 20, of the state constitution may be submitted to the people for a vote at a local election held on the first Tuesday of November in odd-numbered years. The provisions of article X, § 20 (3), apply only to issues of government financing, spending, and taxation governed by article X, § 20. Zaner v. City of Brighton, 917 P.2d 280 (Colo. 1996).

Legislation that furthers the purpose of self-executing constitutional provisions or that facilitates their enforcement is permissible. The general assembly did not exceed its authority by enacting legislation to resolve the ambiguity in article X, § 20, of the state constitution. Zaner v. City of Brighton, 917 P.2d 280 (Colo. 1996).

The term "referred measure" is defined in § 1-1-104 (34.5) to include any ballot question or ballot issue submitted to its eligible electors by any local governmental entity. Such referred measures encompass approval of revenue changes pursuant to § 20 (7) of article X of the state constitution referenced in subsection (4)(d). Havens v. Bd. of County Comm'rs, 924 P.2d 517 (Colo. 1996).

ELECTION CAMPAIGN REGULATIONS

ARTICLE 45

Fair Campaign Practices Act

1-45-101. Short title.

1-45-102. Legislative declaration.

1-45-103. Definitions.

1-45-103.7. Contribution limits - county offices - school district director - treatment of independent expenditure committees - contributions from limited liability companies - voter instructions on spending limits - definitions.

1-45-104. Contribution limits. (Repealed)

1-45-105. Voluntary campaign spending limits. (Repealed)

1-45-105.3. Contribution limits. (Repealed)

1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation.

1-45-106. Unexpended campaign contributions.

1-45-107. Independent expenditures. (Repealed)

1-45-107.5. Independent expenditures - restrictions on foreign corporations - registration - disclosure - disclaimer requirements - definitions.

1-45-108. Disclosure - definitions - repeal.

1-45-108.3. Disclaimer statement - committees - electioneering communications - direct ballot issue or ballot question expenditures.

1-45-108.5. Political organizations - disclosure.

1-45-109. Filing - where to file - timeliness.

1-45-110. Candidate affidavit - disclosure statement.

1-45-111. Duties of the secretary of state - enforcement. (Repealed)

1-45-111.5. Duties of the secretary of state - enforcement - sanctions - definitions.

1-45-111.7. Campaign finance complaints - initial review - curing violations - investigation and enforcement - hearings - advisory opinions - document review - collection of

debts resulting from campaign finance penalties - definitions.

1-45-112. Duties of municipal clerk.

1-45-112.5. Immunity from liability.

1-45-113. Sanctions. (Repealed)

1-45-114. Expenditures - political advertising - rates and charges.

1-45-115. Encouraging withdrawal from campaign prohibited.

1-45-116. Home rule counties and municipalities.

1-45-117. State and political subdivisions - limitations on contributions.

1-45-117.5. Media outlets - political records.

1-45-118. Severability.

1-45-101. Short title.

This article shall be known and may be cited as the "Fair Campaign Practices Act".

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

Editor's note: This section is similar to former § 1-45-101 as it existed prior to 1996.

1-45-102. Legislative declaration.

The people of the state of Colorado hereby find and declare that large campaign contributions to political candidates allow wealthy contributors and special interest groups to exercise a disproportionate level of influence over the political process; that large campaign contributions create the potential for corruption and the appearance of corruption; that the rising costs of campaigning for political office prevent qualified citizens from running for political office; and that the interests of the public are best served by limiting campaign contributions, establishing campaign spending limits, full and timely disclosure of campaign contributions, and strong enforcement of campaign laws.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **Initiated 2012, (Amendment 65):** Entire section amended, L. 2013, p. 3301, effective upon proclamation of the Governor, January 1, 2013.

Editor's note: (1) This section is similar to former § 1-45-102 as it existed prior to 1996.

(2) This section was amended by initiative in 2012. The vote count on the measure at the general election held November 6, 2012, was as follows:

FOR: 1,276,432

AGAINST: 988,542

1-45-103. Definitions.

As used in this article 45, unless the context otherwise requires:

(1) "Appropriate officer" shall have the same meaning as set forth in section 2 (1) of article XXVIII of the state constitution.

(1.3) "Ballot issue" shall have the same meaning as set forth in section 1-1-104 (2.3); except that, for purposes of section 1-45-117, "ballot issue" shall mean both a ballot issue as defined in this subsection (1.3) and a ballot question.

(1.5) "Ballot question" shall have the same meaning as set forth in section 1-1-104 (2.7).

(2) "Candidate" has the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution; except that:

(a) "Candidate" also includes a candidate for a major political party vacancy election conducted pursuant to section 1-12-203 (1.5) and a vacancy contender who has publicly announced an intention to be selected by a vacancy committee to fill a vacancy in the general assembly and thereafter has received a contribution or made an expenditure in support of the candidacy. A vacancy contender remains a candidate for purposes of this article 45 so long as the vacancy contender maintains a registered candidate committee. A vacancy contender who maintains a candidate committee after a vacancy committee has filled the applicable vacancy in the general assembly, but who has not publicly announced an intention to seek election to the general assembly in the next or any subsequent election cycle, is a candidate for purposes of this article 45.

(b) "Candidate" also includes a candidate for a county commissioner vacancy election.

(3) "Candidate committee" shall have the same meaning as set forth in section 2 (3) of article XXVIII of the state constitution.

(4) "Candidate committee account" shall mean the account established by a candidate committee with a financial institution pursuant to section 3 (9) of article XXVIII of the state constitution.

(5) "Conduit" shall have the same meaning as set forth in section 2 (4) of article XXVIII of the state constitution.

(6) (a) "Contribution" shall have the same meaning as set forth in section 2 (5) of article XXVIII of the state constitution.

(b) "Contribution" includes, with regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, but not limited to, items of perishable or nonpermanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration as determined by the candidate committee.

(c) "Contribution" also includes:

(I) Any payment, loan, pledge, gift, advance of money, or guarantee of a loan made to any political organization;

(II) Any payment made to a third party on behalf of and with the knowledge of the political organization; or

(III) The fair market value of any gift or loan of property made to any political organization.

(d) "Contribution" does not include the payment of legal fees to advise a candidate on compliance with campaign laws or regulations or to represent a candidate or candidate committee in any action in which the candidate or committee has been named as a defendant. Such legal services are not undertaken "for the benefit of any candidate committee" or "for the purpose of promoting the candidate's nomination, retention, recall, or election" as those phrases are used in section 2 (5)(a)(II) and (5)(a)(IV) of article XXVIII of the state constitution.

(e) "Contribution" does not include an intervention by the secretary of state, as authorized by section 1-45-111.5 (1.5)(g), in any action brought to enforce the provisions of article XXVIII of the state constitution or this article 45.

(7) "Corporation" means a domestic corporation incorporated under and subject to the "Colorado Business Corporation Act", articles 101 to 117 of title 7, C.R.S., a domestic nonprofit corporation incorporated under and subject to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., or any corporation incorporated under and subject to the laws of another state. For purposes of this article, "domestic corporation" shall mean a for-profit or nonprofit corporation incorporated under and subject to the laws of this state, and "nondomestic corporation" shall mean a corporation incorporated under and subject to the laws

of another state or foreign country. For purposes of this article, "corporation" includes the parent of a subsidiary corporation or any subsidiaries of the parent, as applicable.

(7.2) "Direct ballot issue or ballot question expenditure" means direct spending in support of or opposition to any single ballot issue or ballot question by a person who does not otherwise meet the requirements of an issue committee. Contributions to an issue committee are not direct ballot issue or ballot question expenditures.

(7.3) (a) "Donation" means:

(I) The payment, loan, pledge, gift, or advance of money, or the guarantee of a loan, made to any person for the purpose of making an independent expenditure;

(II) Any payment made to a third party that relates to, and is made for the benefit of, any person that makes an independent expenditure;

(III) The fair market value of any gift or loan of property that is given to any person for the purpose of making an independent expenditure; or

(IV) Anything of value given, directly or indirectly, to any person for the purpose of making an independent expenditure.

(b) "Donation" shall not include a transfer by a membership organization of a portion of a member's dues for an independent expenditure sponsored by such membership organization.

(7.5) "Earmark" means a designation, instruction, or encumbrance that directs the transmission and use by the recipient of all or part of a donation to a third party for the purpose of making:

(a) Independent expenditures greater than one thousand dollars to support or oppose a specified candidate;

(b) Electioneering communications greater than one thousand dollars; or

(c) Contributions or expenditures greater than one thousand dollars to support or oppose a specified ballot issue or ballot question.

(8) "Election cycle" has the same meaning as set forth in section 2 (6) of article XXVIII of the state constitution; except that:

(a) For a vacancy committee selection process used to fill a vacancy in the general assembly pursuant to section 1-12-203, "election cycle" means the period beginning on the effective date of the vacancy in the general assembly and ending thirty days following the date upon which the vacancy committee selects an individual to fill the vacancy;

(b) For major political party vacancy elections held pursuant to section 1-12-203 (1.5), "election cycle" means the period beginning on the date upon which a vacancy committee selects

a member to fill the vacancy in the general assembly pursuant to section 1-12-203, and ending thirty days following the major political party vacancy election; and

(c) For county commissioner vacancy elections held pursuant to section 1-12-206, "election cycle" means the period beginning on the date the vacancy to be filled by vacancy election occurred and ending thirty days following the vacancy election for that office.

(9) "Electioneering communication" has the same meaning as set forth in section 2 (7) of article XXVIII of the state constitution. For purposes of the disclosure required by section 1-45-108, "electioneering communication" also includes any communication that satisfies all other requirements set forth in said section 2 (7) of article XXVIII but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

(10) (a) "Expenditure" has the same meaning as set forth in section 2 (8) of article XXVIII of the state constitution.

(b) "Expenditure" does not include legal services paid to defend a candidate or candidate committee against any action brought to enforce the provisions of article XXVIII of the state constitution or this article 45.

(10.5) "Foreign corporation" means:

(a) A parent corporation or the subsidiary of a parent corporation formed under the laws of a foreign country that is functionally equivalent to a domestic corporation;

(b) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a combined ownership interest that exceeds fifty percent;

(c) A parent corporation or the subsidiary of a parent corporation in which one or more foreign persons hold a majority of the positions on the corporation's board of directors; or

(d) A parent corporation or the subsidiary of a parent corporation whose United States-based operations, or whose decision-making with respect to political activities, falls under the direction or control of a foreign entity, including the government of a foreign country.

(11) "Independent expenditure" shall have the same meaning as set forth in section 2 (9) of article XXVIII of the state constitution.

(11.5) "Independent expenditure committee" means one or more persons that make an independent expenditure in support of or in opposition to a candidate in an aggregate amount in excess of one thousand dollars or that collect in excess of one thousand dollars from one or more persons for the purpose of making an independent expenditure.

(12) (a) "Issue committee" shall have the same meaning as set forth in section 2 (10) of article XXVIII of the state constitution.

(b) For purposes of section 2 (10)(a)(I) of article XXVIII of the state constitution, "major purpose" means support of or opposition to a ballot issue or ballot question that is reflected by:

(I) An organization's specifically identified objectives in its organizational documents at the time it is established or as such documents are later amended; or

(II) An organization's demonstrated pattern of conduct based upon it:

(A) and (B) (Deleted by amendment, L. 2022.)

(C) During the combined period of the current calendar year and the preceding two calendar years, making either contributions to one or more statewide Colorado issue committees or direct ballot issue or ballot question expenditures, in either support of or opposition to one or more statewide Colorado ballot issues or ballot questions, that exceeded thirty percent of the total dollar amount of all funds spent by the organization for any purpose and in any location during the entire preceding and current calendar years;

(D) During the combined period of the current calendar year and the preceding two calendar years, making either contributions to a single statewide Colorado issue committee or direct ballot issue or ballot question expenditures, in either support of or opposition to a single statewide Colorado ballot issue or ballot question, that exceeded twenty percent of the total dollar amount of all funds spent by the organization for any purpose and in any location; or

(E) Acting as an issue committee's funding intermediary by making contributions to an issue committee from funds earmarked for the issue committee.

(c) The provisions of paragraph (b) of this subsection (12) are intended to clarify, based on the decision of the Colorado court of appeals in *Independence Institute v. Coffman,* 209 P.3d 1130 (Colo. App. 2008), cert. denied, 558 U.S. 1024, 130 S. Ct. 165, 175 L. Ed. 479 (2009), section 2 (10)(a)(I) of article XXVIII of the state constitution and not to make a substantive change to said section 2 (10)(a)(I).

(12.5) "Media outlet" means a publication or broadcast medium that transmits news, feature stories, entertainment, or other information to the public through various distribution channels, including, without limitation, newspapers; magazines; radio; and broadcast, cable, or satellite television.

(12.7) "Obligating" means, in connection with a named candidate, agreeing to spend in excess of one thousand dollars for an independent expenditure or to give, pledge, loan, or purchase one or more goods, services, or other things of value that have a fair market value in excess of one thousand dollars as an independent expenditure. "Obligating" shall not require that the total amount in excess of one thousand dollars be finally determined at the time of the agreement to spend moneys for an independent expenditure or to give, pledge, loan, or purchase anything of value.

(13) "Person" shall have the same meaning as set forth in section 2 (11) of article XXVIII of the state constitution.

(14) "Political committee" shall have the same meaning as set forth in section 2 (12) of article XXVIII of the state constitution.

(14.5) "Political organization" means a political organization defined in section 527 (e)(1) of the federal "Internal Revenue Code of 1986", as amended, that is engaged in influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and that is exempt, or intends to seek any exemption, from taxation pursuant to section 527 of the internal revenue code. "Political organization" shall not be construed to have the same meaning as "political organization" as defined in section 1-1-104 (24) for purposes of the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(15) "Political party" shall have the same meaning as set forth in section 2 (13) of article XXVIII of the state constitution.

(15.3) "Regular biennial school election" means the election that is described in section 22-31-104 (1), C.R.S.

(15.5) "Regular biennial school electioneering communication" has the same meaning as "electioneering communication" as defined in section 2 (7) of article XXVIII of the state constitution; except that, for purpose of the definition of regular biennial school electioneering communication only, "candidate" as referenced in section 2 (7)(a)(I) of said article means a candidate in a regular biennial school election and the requirements specified in section 2 (7)(a)(II) mean a communication that is broadcast, printed, mailed, delivered, or distributed within sixty days before a regular biennial school election. Except as otherwise specified in this subsection (15.5), the definition of "regular biennial school electioneering communication" is the same as that of "electioneering communication".

(15.7) "School district director" means a person serving as a director on the board of education of any school district within the state, including a school district composed of a city and county.

(16) "Small donor committee" shall have the same meaning as set forth in section 2 (14) of article XXVIII of the state constitution.

(16.3) (a) "Small-scale issue committee" means an issue committee that has accepted or made contributions or expenditures in an amount that does not exceed five thousand dollars during an applicable election cycle for the major purpose of supporting or opposing any ballot issue or ballot question.

(b) The following are treated as a single small-scale issue committee:

(I) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single corporation or its subsidiaries;

(II) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by a single labor organization or the affiliated local units it directs; or

(III) All small-scale issue committees that support or oppose a common ballot measure if the committees are established, financed, maintained, or controlled by substantially the same person, group of persons, or other organizations.

(16.4) "Special school election" means any school election provided for by law and held at a time other than the regular biennial school election.

(16.5) "Spending" means funds expended influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state and includes, without limitation, any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything else of value by any political organization, a contract, promise, or agreement to expend funds made or entered into by any political organization, or any electioneering communication by any political organization.

(17) "Subsidiary" means a business entity having more than half of its stock owned by another entity or person, or a business entity of which a majority interest is controlled by another person or entity.

(18) "Unexpended campaign contributions"shall have the same meaning as set forth in section 2 (15) of article XXVIII of the state constitution.

(19) "Vacancy contender" means any person who seeks to be selected by a vacancy committee to fill a vacancy in the general assembly pursuant to section 1-12-203.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) added and (8) amended, p. 223, § 1, effective April 10; (1.5) amended and (14) added, p. 954, § 1, effective May 27. **L. 99:** (5) amended, p. 1390, § 12, effective June 4. **L. 2000:** (1.3), (4)(a)(V), and (4.5) added and (4)(a)(III), (10)(b), and (12) amended, pp. 122, 123, §§ 2, 3, effective March 15; (8) amended, p. 1724, § 1, effective June 1. **L. 2002:** (8)(a)(I) amended and (8)(a)(III) added, p. 198, § 1, effective April 3; (1.5) and (2) amended, p. 1576, § 1, effective July 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)). **L. 2003:** Entire section RC&RE, p. 2156, § 1, effective June 3. **L. 2007:** (7) amended, p. 1766, § 1, effective June 1; (6)(c), (14.5), and (16.5) added, pp. 1225, 1224, §§ 2, 1, effective July 1. **L. 2009:** (1.3) and (1.5) added, (HB 09-1153), ch. 174, p. 774, § 1, effective September 1. **L. 2010:** (7) amended and (7.3), (7.5), (10.5), (11.5),

(12.5), and (12.7) added, (SB 10-203), ch. 269, p. 1229, § 2, effective May 25; (12) amended, (HB 10-1370), ch. 270, p. 1241, § 4, effective January 1, 2011. **L. 2011:** (12)(c) amended, (HB 11-1303), ch. 264, p. 1148, § 2, effective August 10. **L. 2016:** (16.3) added, (SB 16-186), ch. 269, p. 1113, § 1, effective June 10; (15.3) and (15.5) added, (HB 16-1282), ch. 267, p. 1105, § 1, effective August 10. **L. 2018:** (6)(d) and (6)(e) added and (10) amended, (HB 18-1047), ch. 155, p. 1091, § 1, effective April 23. **L. 2019:** IP and (7.5) amended and (16.3) R&RE, (HB 19-1318), ch. 328, p. 3040, § 1, effective August 2; IP and (9) amended, (SB 19-068), ch. 69, p. 250, § 1, effective August 2. **L. 2022:** (7.2) added and (7.5) and (12)(b)(II) amended (SB 22-237), ch. 400, p. 2851, § 1, effective June 7; (15.7) and (16.4) added, (HB 22-1060), ch. 99, p. 472, § 1, effective July 1. **L. 2023:** (11.5) amended, (SB 23-276), ch. 399, p. 2394, § 46, effective June 6. **L. 2025:** (2) and (8) amended, (HB 25-1319), ch. 272, p. 1408, § 4, effective May 28; (2) and (8) amended and (19) added, (HB 25-1315), ch. 180, p. 774, § 5, effective August 6.

Editor's note: (1) This section is similar to former § 1-45-103 as it existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) Prior to the recreation and reenactment of this section in 2003, this section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

(3) Prior to the reenactment of subsection (16.3) on August 2, 2019, subsection (16.3)(c) provided for the repeal of subsection (16.3), effective June 30, 2019. (See. L. 2016, p. 1113.)

(4) Amendments to subsections (2) and (8) by HB 25-1319 and HB 25-1315 were harmonized.

Cross references: (1) For the legislative declaration in the 2010 act amending subsection (7) and adding subsections (7.3), (7.5), (10.5), (11.5), (12.5), and (12.7), see section 1 of chapter 269, Session Laws of Colorado 2010.

(2) For the legislative declaration in the 2010 act amending subsection (12), see section 1 of chapter 270, Session Laws of Colorado 2010.

(3) For the legislative declaration in the 2011 act amending subsection (12)(c), see section 1 of chapter 264, Session Laws of Colorado 2011.

ANNOTATION

Annotator's note. Since § 1-45-103 is similar to § 1-45-103 as it existed prior to its repeal in 2002, relevant cases construing that provision and its predecessors have been included in the annotations to this section.

Phrases unconstitutional. The phrase in subsection (7), "which unambiguously refer to any specific public office or candidate for such office, but does not include expenditures made by persons, other than political parties and political committees, in the regular course and scope of their business and political messages sent solely to their members[,]" is unconstitutional under the first amendment. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

The phrase in subsection (11), "or which unambiguously refers to such candidate[,]" is unconstitutional under the first amendment. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

The court concluded that the unconstitutional phrases were severable and declared subsections (7) and (11) invalid only insofar as they reach beyond that which may constitutionally be regulated. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

It is apparent from the plain language of subsection (2) that a candidate committee may be comprised of one person only and that the candidate acting alone may be a candidate committee. Thus, a candidate committee who acts alone for the purpose of receiving campaign contributions or making campaign expenditures is a candidate committee subject to the disclosure requirements of this article. Therefore, the expenditures made by a candidate from the candidate's personal funds before certification of his or her committee were either contributions to the ultimately certified candidate committee or expenditures by a separate campaign committee composed of the candidate alone. Hlavec v. Davidson, 64 P.3d 881 (Colo. App. 2002) (decided under section that was repealed by article XXVIII of the state constitution).

Court's interpretation of the term "candidate committee" to include expenditures of personal money by the candidate on his or her campaign does not limit the amount of money a candidate could personally spend on his or her campaign in violation of the first amendment. The act does not specifically address whether a candidate's personal expenditures are contributions. However, in light of Buckley v. Valeo, 424 U.S. 1 (1976), the definition of "contribution" contained in subsection (4) does not include a candidate's

expenditures of personal funds and contributions made by the candidate to his or her own candidate committee. Accordingly, the court rejected candidate's first amendment argument. Hlavec v. Davidson, 64 P.3d 881 (Colo. App. 2002) (decided under section that was repealed by article XXVIII of the state constitution).

A contribution under § 2(5)(a)(IV) of article XXVIII of the state constitution and as incorporated by reference into subsection (6)(a) of this section requires that: (1) a thing of value (2) be given to a candidate, either directly or indirectly, (3) in order to promote the candidate's nomination, retention, recall, or election. Keim v. Douglas County Sch. Dist., 2017 CO 81, 397 P.3d 377.

Term "independent expenditure" in subsection (7) permits the regulation of only those expenditures that are used for communications that expressly advocate the election or defeat of a clearly identified candidate. This standard includes the words and phrases listed in Buckley v. Valeo, 424 U.S. 1 (1976), and other substantially similar or synonymous words. This approach remains focused on actual words, as contrasted with images, symbols, or other contextual factors, provides adequate notice in light of due process concerns, and strikes an appropriate balance between trying to preserve the goals of campaign finance reform and protecting political speech. League of Women Voters v. Davidson, 23 P.3d 1266 (Colo. App. 2001).

None of the advertisements of so-called educational committee at issue amounted to "express advocacy" as that term is applied in Buckley and progeny and, therefore, so-called educational committee was not subject to the requirements of the Fair Campaign Practices Act. League of Women Voters v. Davidson, 23 P.3d 1266 (Colo. App. 2001).

The term "issue" in subsection (8) includes an initiative that has gone through the title-setting process, but has not been formally certified for the election ballot. To construe the term to include only measures actually placed on the ballot would frustrate the purposes of the Campaign Reform Act by allowing groups to raise and spend money, without limit and without disclosure to the public, to convince electors to sign or not to sign a particular petition, thus significantly influencing its success or failure. Colo. for Family Values v. Meyer, 936 P.2d 631 (Colo. App. 1997).

Telephone opinion poll was not "electioneering" and thus did not constitute an "electioneering communication" within the meaning of subsection (9) of this section and § 6 of article XXVIII of the state constitution. In giving effect to the intent of the electorate, court gives term "communication" its plain and ordinary meaning. Court relies upon dictionary definitions of "communication" that contemplate imparting a message to, rather than having mere contact with, another party. In reviewing scripts used by telephone opinion pollster, "communication" occurred because "facts, information, thoughts, or opinions" were "imparted, transmitted, interchanged, expressed, or exchanged" by pollster to those it called. Telephone opinion pollster, therefore,

communicated information to members of the electorate during its opinion poll. Harwood v. Senate Majority Fund, LLC, 141 P.3d 962 (Colo. App. 2006).

Telephone opinion poll, however, did not satisfy meaning of electioneering. Colorado electorate intended article XXVIII to regulate communication that expresses "electorate advocacy" and tends to "influence the outcome of Colorado elections". This conclusion is reinforced by plain and ordinary meaning of term "electioneering". Court relies upon dictionary definitions suggesting that "electioneering" is defined by such activities as taking an active part in an election campaign, campaigning for one's own election, or trying to sway public opinion especially by the use of propaganda and that "campaigning" means influencing the public to support a particular candidate, ticket, or measure. Here, telephone opinion poll did not seek to influence voters or sway public opinion but instead merely asked neutral questions to collect data and measure public opinion. Accordingly, telephone opinion poll did not constitute an "electioneering communication" under subsection (9) of this section and article XXVIII of the state constitution. Harwood v. Senate Majority Fund, LLC, 141 P.3d 962 (Colo. App. 2006).

The term "issue committee" covers only those issue committees that were formed for the purpose of supporting or opposing a ballot initiative. An association that was formed and operated for purposes other than "accepting contributions or making expenditures to support or oppose any ballot issue or ballot question" does not become an "issue committee" as defined in this section if, at a future point in time, it engages in those activities with regard to a specific ballot issue or ballot question. Common Sense Alliance v. Davidson, 995 P.2d 748 (Colo. 2000).

A "political committee" is formed when two or more persons associate themselves with the original purpose of making independent expenditures. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

The term "political committee" in subsection (10) includes a for-profit corporation which makes contributions, contributions in kind, or expenditures to or on behalf of state political campaigns out of its ordinary corporate treasury. Therefore, such corporation is required to file a statement of organization, to report its contributions, contributions in kind, and expenditures, and otherwise to comply with any filing and reporting requirements of the Campaign Reform Act of 1974. Colo. Common Cause v. Meyer, 758 P.2d 153 (Colo. 1988) (decided prior to 1988 amendment to subsection (10)).

While the stated purposes for the formation of an organization may be one criterion upon which to determine whether it is a "political committee", such purposes are not conclusive. To so hold would permit regulable conduct to escape regulation merely because the stated purposes were misleading, ambiguous, fraudulent, or all three. In addition, such a holding would exalt form over substance and would almost entirely eviscerate the Fair

Campaign Practices Act and make a mockery of legitimate attempts at campaign finance reform. League of Women Voters v. Davidson, 23 P.3d 1266 (Colo. App. 2001).

The use of the disjunctive term "or" in subsection (11) renders the definition of "political message" applicable to messages that "unambiguously refer to a candidate", even if such messages do not also "advocate the election or defeat" of that candidate. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

To qualify as a political message under subsection (11), a message need only: (1) Be delivered by telephone, any print or electronic media, or other written material, and (2) either (a) advocate the election or defeat of any candidate or (b) unambiguously refer to such candidate. Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

Voter guides that unambiguously refer to specific candidates but do not expressly advocate the election or defeat of any candidate constitute "political messages" as defined in subsection (11). Therefore, the funds expended to produce and disseminate the voter guides are subject to regulation as "independent expenditures" as the term is defined in subsection (7). Citizens for Responsible Gov't State Political Action Comm. v. Davidson, 236 F.3d 1174 (10th Cir. 2000).

"Expressly advocating" for purposes of the definition of expenditure in subsection (10) is limited to speech that explicitly exhorts the viewer or reader to vote for or against a candidate in an upcoming election using either the "magic words" described in Buckly v. Valeo, 424 U.S. 1, 44 n.52 (1976), or substantially similar words. The court declined to adopt a functional equivalence test for "express advocacy" that would be difficult to apply and unconstitutionally chill political speech. None of the 17 ads at issue contained any of the magic words or substantially similar synonyms. Accordingly, because none of the ads constituted "expenditures", neither of the two political organizations that distributed the ads were subject to regulation as "political committees". Colo. Ethics v. Senate Majority Fund, LLC, 2012 CO 12, 269 P.3d 1248.

Administrative law judge (ALJ) did not err in concluding that definition of "expenditures" did not apply to metropolitan district boards. Respondents had argued that the metropolitan districts qualified as "persons" that could expend payments on behalf of issue committee supporting ballot issue. Even if the definition of "person" could be stretched to cover political subdivisions of the state such as metropolitan districts, respondents failed to explain how the payments at issue were "made with the prior knowledge and consent of an agent" of the issue committee that was not yet formed in order to bring such payments within the definition of "expenditure". Skruch v. Highlands Ranch Metro. Dists., 107 P.3d 1140 (Colo. App. 2004).

ALJ did not err by interpreting "expenditure" to occur when a payment

is made and when there is a contractual agreement and the amount is determined. The use of the disjunctive "or" in the definition of "expenditure" indicates that an expenditure is made if either criterion is met after the ballot title is submitted. Skruch v. Highlands Ranch Metro. Dists., 107 P.3d 1140 (Colo. App. 2004).

ALJ erred by failing to determine whether major purpose of nonprofit association engaging in political advocacy was the nomination or election of candidates. Alliance for Colorado's Families v. Gilbert, 172 P.3d 964 (Colo. App. 2007).

ALJ correctly construed the phrase "for the purpose of" in § 2(5)(a)(IV) of article XXVIII of the state constitution in accordance with its plain meaning to indicate "an anticipated result that is intended or desired" and not "with the effect of". Such a construction would improperly conflate the distinct concepts of purpose and effect. Such an interpretation would also lead to unintended consequences far beyond the scope of issues presented in the case. CEW v. City & County of Broomfield, 203 P.3d 623 (Colo. App. 2009).

Since effect of city employees' actions, rather than their intent, is to be examined, court further rejects argument that intent is to be gauged by objective rather than subjective criteria. Inquiry into purpose requires examination of the intent of the person alleged to have made a campaign contribution. ALJ considered evidence concerning the city employees' intent and determined, on the basis of substantial evidence in the record, that organization bringing campaign finance complaint had not met its burden of proving that the employees provided services for the purpose of promoting a campaign even though employees knew information would be helpful to the candidates to whom the information was provided. Organization's interpretation improperly equates knowledge of the possible effects of one's actions with an intent to achieve a particular result. Accordingly, ALJ correctly determined that city's contribution of staff time was not "for the purpose of" promoting a political campaign. CEW v. City & County of Broomfield, 203 P.3d 623 (Colo. App. 2009).

Political committee's spending on legal expenses did not qualify as an "expenditure". The meaning of expenditure under § 2(8)(a) of article XXVIII of the state constitution and subsection (10) of this section is limited to spending for "expressly advocating" the election or defeat of a candidate, and express advocacy is limited further still to advocacy by use of "magic words" or substantially similar synonyms. Money spent for legal expenses is not spent for expressly advocating the election or defeat of a candidate and therefore is not an expenditure. Camp. Integ. Watchdog v. Alliance for Safe, 2018 CO 7, 409 P.3d 357.

Payment by unions of staff salaries for time spent organizing walks to distribute political literature and payments of other costs associated with related political activities did not constitute prohibited expenditures in violation of § 3(4)(a) of article XXVIII of the state constitution. Whether payments made by the union are prohibited as "expenditures" depends upon

whether they are exempt from regulation by the membership communication exception in § 2(8)(b)(III) of article XXVIII of the state constitution as payments for "any communication solely to members and their families". The membership communication exception must be construed broadly to reflect the plain language of this constitutional provision and to satisfy the demands of the first amendment. The membership communication exception as construed applies to most of the union's activities in this case. To the extent that the challenged union activities are not embraced by the membership communication exception, the administrative law judge correctly held that person filing campaign finance complaint failed to prove facts demonstrating that an expenditure was made. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

The membership communication exception found in § 2(8)(b)(III) of article XXVIII of the state constitution must be extended to and embraced within the definition of "contribution". To hold otherwise nullifies the exception. The same conduct may not be protected by the membership communication exception to expenditures, that is, treated as an exempt expenditure, yet, at the same time, be prohibited as a nonexempt contribution. Such a result would be contrary to the intent of the electorate and constitute an unreasonable and disharmonious application of this article. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

Unions' challenged conduct does not meet the pertinent definitions of a contribution under § 2(5)(a)(II) and (5)(a)(IV) of article XXVIII of the state constitution and subsection (6) of this section. Facts may reasonably be viewed in two contradictory ways: One advancing the union's argument that the payment of union staff salaries for organizing political events were paid for the benefit of the unions and their members and thus exempt from regulation; the other that the payments constituted payments made to a third party for the benefit of the candidate or anything of value given indirectly to the candidate and, thus, were prohibited contributions. When the first amendment is at stake, the tie goes to the speaker rather than to censorship and regulation. On the facts of this case, the unions did not make any prohibited contributions in violation of § 3(4)(a) of article XXVIII of the state constitution. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

School district did not make a prohibited contribution to a campaign under § 2(5)(a)(IV) of article XXVIII and § 1-45-117 (1)(a)(I). A research report from a national think tank supportive of a school district's educational reform efforts that the district commissioned and paid for with public funds constitutes a "thing of value" for purposes of the definition of "contribution". The district did not make a prohibited contribution to a campaign, however, when it broadly disseminated an email of the report to county residents. Something of value is not given to a candidate when it is publicly distributed, even if the candidate happens to be among the public to which the thing of value has been made available. Keim v. Douglas

County Sch. Dist., 2017 CO 81, 397 P.3d 377.

Uncompensated legal services are not contributions to a political organization under subsection (6)(b). The constitutional definition of "contribution" does not address political organizations, and neither part of the definition in subsection (6) covers legal services donated to political organizations. Subsection (6)(b) does not apply to political organizations and the word "gift" in subsection (6)(c)(I) does not include gifts of services. Coloradans Bet. Fut. v. Camp. Int. Watchdog, 2018 CO 6, 409 P.3d 350.

Payments to a law firm to defend political committee in tort suit are a reportable contribution under § 2(5)(a)(II) of article XXVIII of the state constitution. Because the law firm that defended the political committee and the court of appeals were both third parties in relation to the political committee, the payment of filing fees to the court and of legal fees to the law firm were "payment[s] made to a third party." And the payments were "for the benefit" of the political committee because they furthered the committee's legal defense. Because the payments of the political committee's legal expenses were contributions to the committee under § 2(5)(a)(II), the committee was required to report them as contributions under § 1-45-108 (1)(a)(I). Camp. Integ. Watchdog v. Alliance for Safe, 2018 CO 7, 409 P.3d 357.

Because coordination, as a concept or as a matter of law, is not required to protect the rights of the maker of a contribution under the circumstances of this case, court declines to impose a requirement of coordination on the definition of contribution to satisfy first amendment requirements. While a finding of coordination may be necessary to protect the recipient of an indirect contribution from unwittingly violating this article, that issue is not raised by this case. Colo. Educ. Ass'n v. Rutt, 184 P.3d 65 (Colo. 2008).

Television advertisements urging voters to oppose incumbent member met the definition of electioneering communications under § 2(7)(a) of article XXVIII of state constitution. Unambiguous reference to "any communication" in definition does not distinguish between express advocacy and advocacy that is not express. Further, subsection (7)(a) is triggered when a communication is made within 30 days before a primary election or 60 days before a general election, without regard to the communication's purpose. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

Regular business exception in § 2(7)(b)(III) of article XXVIII of the state constitution is limited to persons whose business is to broadcast, print, publicly display, directly mail, or hand deliver candidate-specific communications within the named candidate's district as a service rather than to influence elections. Wording of exception shows that the phrase "in the regular course and scope of their business" does not apply to political committees. Accordingly, political committee does not come within the regular business exception. Colo. Citizens for Ethics in Gov't v. Comm.

for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

The definition of political committee in § 2(12) of article XXVIII of the state constitution would be unconstitutional as applied if it did not incorporate the major purpose test. There are two ways to determine an organization's major purpose: (1) examining its central organizational purpose; and (2) comparing the organization's independent spending with overall spending to determine whether the preponderance of expenditures is for express advocacy or contributions to candidates. Campaign Integrity v. Colo. Citizens, 2018 COA 16, 415 P.3d 874.

The statutory major purpose test borrowed from the definition of issue committee in subsection (12)(b) should not be applied to assessing whether an organization is a political committee. Campaign Integrity v. Colo. Citizens, 2018 COA 16, 415 P.3d 874.

Organization was not a political committee because its major purpose, its one central purpose, was not supporting candidates. Records of the organization in a consecutive twelve-month period showed that only a little over one-third of the organization's spending was on political advocacy for candidates. Campaign Integrity v. Colo. Citizens, 2018 COA 16, 415 P.3d 874.

A judicial officer seeking retention is a candidate for purposes of the definition of "candidate" in subsection (2). Further, a judicial retention vote is an election for purposes of the definition of "political committee" in subsection (14). Colo. Ethics Watch v. Clear the Bench, 2012 COA 42, 277 P.3d 931.

An organization that supports or opposes the retention of a judicial officer is a political committee because it supports or opposes the election of a candidate and because it is recognized as such by § 1-45-109 (1)(a)(I). Organization accepted contributions and made expenditures of over $200 to oppose the retention of three justices of the Colorado supreme court. It is, therefore, a political committee. Organization cannot be both a political committee and issue committee because the two are defined under subsections (10) and (12) of art. XXVIII of the state constitution to be mutually exclusive. Colo. Ethics Watch v. Clear the Bench, 2012 COA 42, 277 P.3d 931.

The language in § 25 of art. VI of the state constitution stating that "a question shall be placed on the . . . ballot" does not render judicial retention a "ballot question" for purposes of this article. A judicial retention vote is not a "ballot question" because it does not involve a citizen petition or referred measure. Because a judicial retention vote does not meet the definition of a "ballot issue" or "ballot question" contained in subsections (1.3) and (1.5), organization opposing retention of three justices is not an issue committee under subsection (12)(a). Colo. Ethics Watch v. Clear the Bench, 2012 COA 42, 277 P.3d 931.

Secretary of state's proposed rule, 8 Colo. Code Regs. 1505-6, § 1.12, intended to fill a gap in subsection (12)(b) of this

section by defining "major purpose" in the definition of issue committee, is arbitrary and capricious. The rule imposed a requirement that, in order to determine whether an issue committee has a "major purpose" under the constitutional and statutory definitions, a demonstrated pattern of conduct is established where the organization's annual expenditures in support of or in opposition to ballot issues or ballot questions exceed 30% of the organization's total spending during the same period. The rule is arbitrary and capricious because the 30% threshold is unsupported by competent evidence in the record. Even if there was competent evidence in the record to support a 30% threshold, this threshold would not resolve the ambiguity as to how a "pattern of conduct" must be demonstrated. Thus, the rule's 30% threshold is manifestly contrary to subsection (12)(b)'s use of the phrase "pattern of conduct" in its definition of major purpose. Colo. Ethics Watch v. Gessler, 2013 COA 172M, 363 P.3d 727.

Secretary of state's proposed rule, 8 Colo. Code Regs. 1505-6, § 1.18.2, designed to fill a gap in the constitutional definition of "political committee" in subsection (14) of this section by explaining precisely how the judicially created "major purpose" test limits what groups qualify as political committees, is invalid because the constitutional definition is clear and unambiguous: Political committees are defined by their contributions or expenditures, not by an additional major purpose test. Because the provisions are clear, there is no gap for the secretary to fill, and he does not have the authority to add a "major purpose" requirement, even in an attempt to codify judicial precedent. Colo. Ethics Watch v. Gessler, 2013 COA 172M, 363 P.3d 727.

District court correctly invalidated secretary of state's proposed rules, 8 Colo. Code Regs. 1505-6, §§ 7.2 and 1.10, designed to fill a gap in subsection (14.5) of this section by narrowing the definition of the phrase "political organization" to conform to federal judicial precedent. The secretary's addition in § 7.2 of the rules of a requirement that a section 527 entity must have a major purpose of influencing state elections contradicts the clear and unambiguous language of subsection (14.5) of this section. This section does not look to the purpose of the entity but to the actual activities of the entity. The secretary's addition in § 1.10 of the rules of an "express advocacy" requirement also contradicts the clear and unambiguous language of this section. These rules thus contradict the clear and unambiguous language of this section by improperly eliminating the statutory distinction between a political organization and a political committee. Colo. Ethics Watch v. Gessler, 2013 COA 172M, 363 P.3d 727.

Subsection (6)(b), which concerns all contributions "for which the contributor receives compensation or consideration", applies to payments made to a state political party for vendor tables at the party's state convention. Interpreting subsection (6)(b) as applying only to payments made to candidate committees that have determined the value of the goods and services provided while excluding payments made to political parties would lead to an

absurd result. It is illogical that the general assembly intended "contribution" to enable only candidate committees to determine the value of goods and services provided. Campaign Integrity v. Republican Comm., 2017 COA 126, 488 P.3d 284.

Under the plain language of subsection (6)(b), political parties are required to report only that portion of payments for services that exceeds the value of the services rendered. While the state constitution broadly defines a "contribution", the plain language of the statute addresses the determination of the contribution amount when the contributor receives something of value in the transaction. When a contributor pays a political party for a good or service, and the amount paid is greater than its value, only the amount paid in excess of the value is considered a contribution. The general assembly intended to differentiate between those payments for services that equal the value of those goods and services, which are not contributions, and those made in excess, which are. Campaign Integrity v. Republican Comm., 2017 COA 126, 488 P.3d 284.

Based on the plain meaning of subsection (6)(b) and applying it to political parties, ALJ erred in determining that payments made to state political party for vendor tables at party's state convention were reportable contributions that party did not properly report. The amount of a contribution includes only payments made in excess of the value received by the contributor. Campaign Integrity v. Republican Comm., 2017 COA 126, 488 P.3d 284.

1-45-103.7. Contribution limits - county offices - school district director - treatment of independent expenditure committees - contributions from limited liability companies - voter instructions on spending limits - definitions.

(1) Nothing in article XXVIII of the state constitution or this article shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(1.5) (a) (I) The maximum amount of aggregate contributions that any one person other than a small donor committee or a political party may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any such person, is one thousand two hundred fifty dollars for the primary election and one thousand two hundred fifty dollars for the general election.

(II) The maximum amount of aggregate contributions that any one small donor committee may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any one small donor committee, is twelve thousand five hundred dollars for the primary election and twelve thousand five hundred dollars for the general election.

(III) The maximum amount of aggregate contributions that a political party may make to a candidate committee of a candidate for a county office, and that a candidate committee for such candidate may accept from any political party, is twenty-two thousand one hundred twenty-five dollars for the applicable election cycle.

(b) Candidates may accept contributions subject to the aggregate limits specified in subsection (1.5)(a)(I) or (1.5)(a)(II) of this section in accordance with subsection (3) of this section.

(c) Any monetary amount specified in subsection (1.5)(a) of this section must be adjusted in accordance with the adjustments made to other contribution limits as specified in section 3 (13) of article XXVIII of the state constitution.

(d) The requirements of sections 1-45-108 and 1-45-109, as applicable, apply to any contribution made or received that is subject to subsection (1.5)(a) of this section.

(e) For purposes of this subsection (1.5), "county office" means a county commissioner, county clerk and recorder, sheriff, coroner, treasurer, assessor, or surveyor.

(f) A candidate committee for a county office shall not knowingly accept contributions from an issue committee or a small-scale issue committee, and a candidate committee shall not make contributions to an issue committee or small-scale issue committee.

(1.7) (a) The maximum amount of aggregate contributions that a person, excluding a small donor committee, may make to a candidate committee of a candidate for school district director, and that a candidate committee for such candidate may accept from any one person excluding a small donor committee for a regular biennial school election or special school election, as applicable, is two thousand five hundred dollars.

(b) The maximum amount of aggregate contributions that a small donor committee may make to a candidate committee of a candidate for school district director, and that a candidate committee for such candidate may accept from any one small donor for a regular biennial or special school election, as applicable, is twenty-five thousand dollars.

(c) Any monetary amount specified in subsection (1.7)(a) or (1.7)(b) of this section must be adjusted in accordance with the adjustments made to other contribution limits as specified in section 3 (13) of article XXVIII of the state constitution.

(d) The requirements of sections 1-45-108 and 1-45-109, as appropriate, apply to any contribution made or received for any four-year election cycle that is subject to subsection (1.7)(a) or (1.7)(b) of this section.

(1.9) (a) (I) The maximum amount of aggregate contributions that any one person, including a political party, and excluding a small donor committee, may make to a candidate committee of

a candidate for a municipal office, and that a candidate committee for such a candidate may accept from any one such person per election is four hundred dollars.

(II) The maximum amount of aggregate contributions that any one small donor committee may make to a candidate committee of a candidate for a municipal office and that a candidate committee for such a candidate may accept from any one small donor committee per election is four thousand dollars.

(III) The requirements of sections 1-45-108 and 1-45-109, as appropriate, apply to any contribution made or received for any election that is subject to subsection (1.9)(a)(I) or (1.9)(a)(II) of this section.

(b) As used in this subsection (1.9), "municipal office" means the mayor, the board of trustees, a member of city council, and any other elected municipal officer.

(2) A political committee may receive and accept moneys contributed to such committee by a corporation or labor organization pursuant to subsection (1) of this section for disbursement to a candidate committee or political party without depositing such moneys in an account separate from the account required to be established for the receipt and acceptance of all contributions by all committees or political parties in accordance with section 3 (9) of article XXVIII of the state constitution.

(2.5) (a) An independent expenditure committee differs from a political committee in that an independent expenditure committee does not coordinate its activities with a candidate or political party.

(b) An independent expenditure committee shall not be treated as a political committee and, therefore, is not subject to the requirements of section 3 (5) of article XXVIII of the state constitution.

(3) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party who is running in a primary election may accept:

(a) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a primary election at any time after the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot; or

(b) The aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution for a general election at any time prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot.

(3.5) A candidate committee shall not knowingly accept contributions from an issue committee or a small-scale issue committee, and a candidate committee shall not make contributions to an issue committee or small-scale issue committee.

(4) A candidate committee established in the name of a candidate affiliated with either a major political party or a minor political party running in a primary election may expend contributions received and accepted for a general election prior to the date of the primary election in which the candidate in whose name the candidate committee is accepting contributions is on the primary election ballot. A candidate committee established in the name of a candidate affiliated with a major political party or a minor political party running in a primary election who wins the primary election may expend contributions received and accepted for a primary election in the general election.

(4.5) (a) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may accept from any one person the aggregate contribution limit specified in either section 3 (1) of article XXVIII of the state constitution or subsection (1.5)(a) of this section applicable to the office he or she is seeking at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot.

(b) A candidate committee established in the name of a candidate who is a write-in candidate, an unaffiliated candidate, or the candidate of a minor political party who is not running in a primary election may expend contributions received and accepted in accordance with paragraph (a) of this subsection (4.5) at any point during the election cycle in which the candidate in whose name the candidate committee is accepting contributions is on the general election ballot.

(4.7) (a) A candidate committee established in the name of a candidate who is running for a county commissioner vacancy election may accept from any one person the aggregate contribution limit for a general election as specified in subsection (1.5) of this section applicable to the office of county commissioner at any point during the election cycle.

(b) A candidate committee established in the name of a candidate who is running for a county commissioner vacancy election may expend contributions in accordance with subsection (4.7)(a) of this section at any point during the election cycle.

(4.8) (a) A candidate committee established in the name of a vacancy contender may accept from any one person the aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution applicable to the office the vacancy contender is seeking at any point during the election cycle for the vacancy committee selection process used to fill a vacancy in the general assembly pursuant to section 1-12-203.

(b) A candidate committee established in the name of a candidate who is running for a major political party vacancy election may accept from any one person the aggregate contribution limit specified in section 3 (1) of article XXVIII of the state constitution applicable to the office the candidate is seeking at any point during the election cycle for the major political party vacancy election held pursuant to section 1-12-203 (1.5).

(5) (a) No limited liability company shall make any contribution to a candidate committee or political party if one or more of the individual members of the limited liability company is:

(I) A corporation;

(II) A labor organization;

(III) A natural person who is not a citizen of the United States;

(IV) A foreign government;

(V) A professional lobbyist, volunteer lobbyist, or the principal of a professional or volunteer lobbyist, and the contribution is prohibited under section 1-45-105.5 (1); or

(VI) Otherwise prohibited by law from making the contribution.

(b) No limited liability company shall make any contribution to a political committee if one or more of the individual members of the limited liability company is:

(I) An entity formed under and subject to the laws of a foreign country;

(II) A natural person who is not a citizen of the United States; or

(III) A foreign government.

(c) Notwithstanding any other provision of this subsection (5), no limited liability company shall make any contribution to a candidate committee or political party if either the limited liability company has elected to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 or any successor provision or the shares of the limited liability company are publicly traded. A contribution by a limited liability company with a single natural person member that does not elect to be treated as a corporation by the internal revenue service pursuant to 26 CFR 301.7701-3 shall be attributed only to the single natural person member.

(d) (I) Any limited liability company that is authorized to make a contribution shall, in writing, affirm to the candidate committee, political committee, or political party to which it has made a contribution, as applicable, that it is authorized to make a contribution, which affirmation shall also state the names and addresses of all of the individual members of the limited liability company. No candidate committee, political committee, or political party shall accept a contribution from a limited liability company unless the written affirmation satisfying the requirements of this paragraph (d) is provided before the contribution is deposited by the candidate committee, political committee, or political party. The candidate committee, political

committee, or political party receiving the contribution shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution is received.

(II) Any contribution by a limited liability company, and the aggregate amount of contributions from multiple limited liability companies attributed to a single member of any such company under this subparagraph (II), shall be subject to the limits governing such contributions under section 3 of article XXVIII of the state constitution. A limited liability company that makes any contribution to a candidate committee, political committee, or political party shall, at the time it makes the contribution, provide information to the recipient committee or political party as to the amount of the total contribution attributed to each member of the limited liability company. The attribution shall reflect the capital each member of the limited liability company has invested in the company relative to the total amount of capital invested in the company as of the date the company makes the campaign contribution, and for a single member limited liability company, the contribution shall be attributed to that single member. The limited liability company shall then deduct the amount of the contribution attributed to each of its members from the aggregate contribution limit applicable to multiple limited liability companies under this subparagraph (II) for purposes of ensuring that the aggregate amount of contributions from multiple limited liability companies attributed to a single member does not exceed the contribution limits in section 3 of article XXVIII of the state constitution. Nothing in this subparagraph (II) shall be construed to restrict a natural person from making a contribution in his or her own name to any committee or political party to the extent authorized by law.

(5.3) An issue committee or small-scale issue committee shall not knowingly:

(a) Accept contributions from:

(I) Any natural person who is not a citizen of the United States;

(II) A foreign government;

(III) Any foreign corporation that does not have the authority to transact business in this state pursuant to article 115 of title 7 or any successor section; or

(IV) A candidate committee;

(b) Make contributions to a candidate or candidate committee.

(5.5) A natural person who is not a citizen of the United States, a foreign government, or a foreign corporation shall not establish, register, or maintain a political committee, small donor committee, political party, issue committee, or small-scale issue committee, or make an electioneering communication or regular biennial school electioneering communication.

(5.7) A natural person who is not a citizen of the United States, a foreign government, or a foreign corporation shall not make any direct ballot issue or ballot question expenditure in connection with an election on a ballot issue or ballot question in the state.

(6) No nondomestic corporation may make any contribution under article XXVIII of the state constitution or this article that a domestic corporation is prohibited from making under article XXVIII of the state constitution or this article.

(6.5) Notwithstanding any other provision of law, a candidate committee established in the name of a candidate may expend contributions received and accepted by the committee during any particular election cycle to reimburse the candidate for reasonable and necessary expenses for the care of children or other dependents the candidate incurs directly in connection with the candidate's campaign activities during the election cycle. The candidate committee shall disclose the expenditures in the same manner as any other expenditures the committee is required to disclose under section 1-45-108 (1)(a)(I).

(7) (a) Any person who believes that a violation of subsection (1.5), (1.7), (5), or (6) of this section has occurred may file a written complaint with the secretary of state in accordance with section 1-45-111.7 (2).

(b) Any person who has violated subsection (1.5), (1.7), (5)(a), (5)(b), (5)(c), or (6) of this section is subject to a civil penalty of at least double and up to five times the amount contributed or received in violation of the applicable provision.

(c) Any person who has violated any of the provisions of subsection (5)(d)(I) of this section is subject to a civil penalty of fifty dollars per day for each day that the written affirmation regarding the membership of a limited liability company has not been filed with or retained by the candidate committee, political committee, or political party to which a contribution has been made.

(8) As used in this section, "limited liability company" has the same meaning as "domestic limited liability company" as defined in section 7-90-102 (15) or "foreign limited liability company" as defined in section 7-90-102 (24).

(9) (a) The voters instruct the Colorado congressional delegation to propose and support, and the Colorado state legislature to ratify, an amendment to the United States Constitution that allows Congress and the states to limit campaign contributions and spending, to ensure that all citizens, regardless of wealth, can express their views to one another and their government on a level playing field.

(b) The provisions of this subsection shall take effect on January 1, 2013, and be applicable thereafter.

(10) For purposes of this section, the terms "unaffiliated", "major political party", and "minor political party" have the same meanings as specified in the "Uniform Election Code of 1992", articles 1 to 13 of this title.

(11) (a) If, within the six months before becoming a candidate for public office, a person actively solicits funds for an independent expenditure committee with the intent of benefiting his or her future candidacy, any expenditure made by that independent expenditure committee in that candidate's race is presumed to be controlled by or coordinated with that candidate and deemed to constitute both a contribution by the maker of the expenditures, and an expenditure by the candidate committee.

(b) If any complaint filed under section 1-45-111.7 for a violation of this subsection (11) fails to state sufficient facts to support the allegations of the complaint, upon a final agency action, the respondent to such a complaint may apply to the state district court for an award of the person's attorneys fees and costs in connection with defending against the complaint if the district court determines that the complaint was frivolous, vexatious, or for the purpose of harassment.

(12) (a) (I) A candidate committee account that was established for a candidate who was not elected must be terminated within one year following the election for which the candidate committee account was established unless there is an outstanding campaign finance complaint against the candidate committee that established the candidate committee account.

(II) A candidate committee account that was established for a candidate who was elected must be terminated within one year following the date that the candidate who was elected leaves office unless there is an outstanding campaign finance complaint against the candidate committee that established the candidate committee account.

(b) The total amount of unexpended campaign contributions that are transferred to a new candidate committee for a different office sought by the same candidate shall not exceed the political party contribution limit for the initial candidate committee that received the contributions.

Source: L. 2003: Entire section added, p. 2160, § 6, effective June 3. **L. 2004:** Entire section amended, p. 863, § 1, effective May 21. **L. 2007:** (5), (6), (7), and (8) added, p. 1766, § 2, effective June 1. **L. 2008:** (5)(d)(II) amended, p. 440, § 1, effective April 14. **L. 2010:** (2.5) added and (6) and (8) amended, (SB 10-203), ch. 269, p. 1230, § 3, effective May 25. **Initiated 2012, (Amendment 65):** (9) added, L. 2013, p. 3301, effective upon proclamation of the Governor, January 1, 2013. **L. 2014:** IP(3) and (4) amended and (4.5) and (10) added, (HB 14-1335), ch. 145, p. 494, § 2, effective May 2. **L. 2018:** (2.5) and (8) amended, (HB 18-1047), ch. 155, p. 1092, § 2, effective April 23. **L. 2019:** (7)(a) amended, (SB 19-232), ch. 330, p. 3065, § 2, effective July 1; (1.5) added and (4.5)(a) and (7)(b) amended, (HB 19-1007), ch. 97, p. 356, § 1, effective August 2; (5.3), (5.5), and (11) added, (HB 19-1318), ch. 328, p. 3041, § 2, effective

August 2; (6.5) added, (SB 19-229), ch. 354, p. 3260, § 1, effective September 1. **L. 2022:** (1.7) added and (7) amended, (HB 22-22-1060), ch. 99, p. 472, § 2, effective July 1. **L. 2023:** (1.5)(f), (3.5), and (12) added and (5.3) amended, (SB 23-276), ch. 399, p. 2394, § 47, effective June 6; (1.9) added, (HB 23-1245), ch. 417, p. 2466, § 1, effective January 1, 2024. **L. 2024:** (5.7) added, (SB 24-210), ch. 468, p. 3262, § 49, effective June 6. **L. 2025:** (4.7) added, (HB 25-1319), ch. 272, p. 1409, § 5, effective May 28; (4.8) added, (HB 25-1315), ch. 180, p. 775, § 6, effective August 6.

Editor's note: Subsection (9) was added by initiative in 2012. The vote count on the measure at the general election held November 6, 2012, was as follows:

FOR: 1,276,432

AGAINST: 988,542

Cross references: (1) For the legislative declaration in the 2010 act adding subsection (2.5) and amending subsections (6) and (8), see section 1 of chapter 269, Session Laws of Colorado 2010.

(2) For the legislative declaration in HB 14-1335, see section 1 of chapter 145, Session Laws of Colorado 2014.

ANNOTATION

The classification in former subsections (3) and (4) (now subsections (3), (4), and (4.5)) violates the right to equal protection for individuals wishing to contribute to write-ins, unaffiliated candidates, and minor-party candidates when each candidate runs unopposed for the nomination. This statute does not set contribution limits based on who has a primary and who does not. It creates different contribution limits for individuals running against one another. It allows Republican and Democratic candidates to collect and spend $400 after the primary. Thus, a Republican or Democratic candidate can obtain $400 from a single contributor and spend all of the money in the general election. For the same general election, a write-in candidate can obtain only $200 from a single contributor. Riddle v. Hickenlooper, 742 F.3d 922 (10th Cir. 2014) (decided prior to 2014 amendment).

Under § 9(2)(a) of article XXVIII of the state constitution, a complaint alleging that a contribution exceeds the applicable limit, either on its own or when aggregated with previous contributions, must be filed within 180 days of that excess contribution. Lambert v. Ritter

Inaugural Comm., Inc., 218 P.3d 1115 (Colo. App. 2009).

To give effect to both the contribution limit in § 3 of article XXVIII and the time limit in § 9(2)(a) of article XXVIII, a complaint may seek relief only as to contributions that, standing alone or aggregated, exceed the limit and are made within the preceding 180-day period, and the relief available under § 10(1) of article XXVIII or subsection (7)(b) of this section is limited to those excess contributions as to which the complaint is timely. Lambert v. Ritter Inaugural Comm., Inc., 218 P.3d 1115 (Colo. App. 2009).

An independent expenditure committee operating without the control or coordination of a political party is able to collect contributions or make independent expenditures — expenditures not controlled by or coordinated with any candidate — that are not subject to the source and contribution limits that restrict political parties under § 3(3) of article XXVIII of the state constitution and under this act. Colo. Republican Party v. Williams, 2016 COA 26, 370 P.3d 650.

1-45-104. Contribution limits. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (13)(a)(II) amended, p. 632, § 2, effective May 6; (13)(c) amended, p. 950, § 1, effective May 27; (14) added, p. 955, § 2, effective May 27. **L. 99:** IP(2) amended, p. 1391, § 13, effective June 4. **L. 2000:** Entire section repealed, p. 129, § 12, effective March 15.

Editor's note: This section was similar to former § 1-45-111 as it existed prior to 1996.

1-45-105. Voluntary campaign spending limits. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (3) amended, p. 951, § 2, effective May 27. **L. 2000:** Entire section repealed, p. 129, § 12, effective March 15.

Editor's note: This section was similar to former § 1-45-112 as it existed prior to 1996.

1-45-105.3. Contribution limits. (Repealed)

Source: L. 2000: Entire section added with relocations, p. 118, § 1, effective March 15. **L. 2002:** (4)(a.5) added, p. 1929, § 1, effective June 7. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

Editor's note: (1) The provisions of this section were similar to several former provisions of § 1-45-104 as they existed prior to 2000.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

1-45-105.5. Contributions to members of general assembly and governor during consideration of legislation.

(1) (a) No professional lobbyist, volunteer lobbyist, or principal of a professional lobbyist or volunteer lobbyist shall make or promise to make a contribution to, or solicit or promise to solicit a contribution for:

(I) A member of the general assembly or candidate for the general assembly, when the general assembly is in regular session;

(II) (A) The governor or a candidate for governor when the general assembly is in regular session or when any measure adopted by the general assembly in a regular session is pending before the governor for approval or disapproval; or

(B) The lieutenant governor, the secretary of state, the state treasurer, the attorney general, or a candidate for any of such offices when the general assembly is in regular session.

(b) As used in this subsection (1):

(I) "Principal" means any person that employs, retains, engages, or uses, with or without compensation, a professional or volunteer lobbyist. One does not become a principal, nor may one be considered a principal, merely by belonging to an organization or owning stock in a corporation that employs a lobbyist.

(II) The terms "professional lobbyist" and "volunteer lobbyist" shall have the meanings ascribed to them in section 24-6-301, C.R.S.

(c) (I) Nothing contained in this subsection (1) shall be construed to prohibit lobbyists and their principals from raising money when the general assembly is in regular session or when regular session legislation is pending before the governor, except as specifically prohibited in paragraph (a) of this subsection (1).

(II) Nothing contained in this subsection (1) shall be construed to prohibit a lobbyist or principal of a lobbyist from participating in a fund-raising event of a political party when the general assembly is in regular session or when regular session legislation is pending before the governor, so long as the purpose of the event is not to raise money for specifically designated members of the general assembly, specifically designated candidates for the general assembly, the governor, or specifically designated candidates for governor.

(III) A payment by a lobbyist or a principal of a lobbyist to a political party to participate in such a fund-raising event shall be reported as a contribution to the political party pursuant to section 1-45-108; except that, if the lobbyist or principal of a lobbyist receives a meal in return for a portion of the payment, only the amount of the payment in excess of the value of the meal shall be considered a contribution to the political party. The political party shall determine the value of the meal received for such payment, which shall approximate the actual value of the meal.

(IV) A gift of a meal described in subparagraph (III) of this paragraph (c) by a lobbyist or a principal of a lobbyist to a candidate elected to any office described in paragraph (a) of this subsection (1) but who has not yet been sworn into such office shall be reported as follows:

(A) The lobbyist shall report the value of the meal in the lobbyist disclosure statement filed pursuant to section 24-6-302, C.R.S.

(B) The elected candidate who has not yet been sworn into office shall report the value of the meal in the public official disclosure statement filed pursuant to section 24-6-203, C.R.S.

Source: L. 2000: Entire section added with relocations, p. 118, § 1, effective March 15. **L. 2012:** IP(1)(c)(IV) and (1)(c)(IV)(B) amended, (HB 12-1070), ch. 167, p. 586, § 5, effective August 8.

Editor's note: This section is similar to former § 1-45-104 (13) as it existed prior to 2000.

1-45-106. Unexpended campaign contributions.

(1) (a) (I) Subject to the requirements of section 3 (3)(e) of article XXVIII of the state constitution, unexpended campaign contributions to a candidate committee may be:

(A) Contributed to a political party;

(B) Contributed to a candidate committee established by the same candidate for a different public office, subject to the limitations set forth in section 3 of article XXVIII of the state constitution, if the candidate committee making such a contribution is affirmatively closed by the candidate no later than ten days after the date such a contribution is made;

(C) Donated to a charitable organization recognized by the internal revenue service;

(D) Returned to the contributors, or retained by the committee for use by the candidate in a subsequent campaign.

(II) Except as authorized by section 1-45-103.7 (6.5) and subsection (1)(b)(VI) of this section, in no event shall contributions to a candidate committee be used for personal purposes not reasonably related to supporting the election of the candidate.

(III) A candidate committee for a former officeholder or a person not elected to office shall expend all of the unexpended campaign contributions retained by such candidate committee, for the purposes specified in this subsection (1), no later than one year from the date such officeholder's term expired or from the date of the election at which such person was a candidate for office, whichever is later.

(b) In addition to any use described in subsection (1)(a) of this section, a person elected to a public office may use unexpended campaign contributions held by the person's candidate committee for any of the following purposes:

(I) Voter registration;

(II) Political issue education, which includes obtaining information from or providing information to the electorate;

(III) Postsecondary educational scholarships;

(IV) To defray reasonable and necessary expenses related to mailings and similar communications to constituents;

(V) Any expenses that are directly related to such person's official duties as an elected official, including, but not limited to, expenses for the purchase or lease of office equipment and supplies, room rental for public meetings, necessary travel and lodging expenses for legislative

education such as seminars, conferences, and meetings on legislative issues, and telephone and pager expenses;

(VI) For purposes specified in section 1-45-103.7 (6.5), in connection with the person's official duties as an elected official.

(2) (Deleted by amendment, L. 2000, p. 123, § 4, effective March 15, 2000.)

(3) Unexpended contributions to an issue committee may be donated to any charitable organization recognized by the internal revenue service or returned to the contributor.

(4) This section shall apply to unexpended campaign contributions transferred from a political committee formed prior to January 15, 1997, to a candidate committee registering after January 15, 1997, pursuant to section 1-45-108.

(5) Notwithstanding any other provision of law, any unexpended campaign contributions retained by a candidate committee for use in a subsequent election cycle shall be counted and reported as contributions from a political party in any subsequent election in accordance with the requirements of section 3 (3)(e) of article XXVIII of the state constitution.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1) amended, p. 955, § 3, effective May 27. **L. 2000:** (1)(a) and (2) amended, p. 123, § 4, effective March 15. **L. 2003:** IP(1)(a)(I) amended and (5) added, p. 2157, § 2, effective June 3. **L. 2010:** (1)(a)(I)(B) amended, (SB 10-041), ch. 151, p. 522, § 1, effective July 1. **L. 2019:** (1)(a)(II) amended, (SB 19-229), ch. 354, p. 3260, § 2, effective September 1. **L. 2023:** (1)(a)(II), (1)(a)(III), and IP(1)(b) amended and (1)(b)(VI) added, (SB 23-276), ch. 399, p. 2395, § 48, effective June 6.

Editor's note: This section is similar to § 1-45-109 as it existed prior to 1996.

ANNOTATION

Subsection (2) is constitutional. The state's interest in preventing avoidance of valid contribution limits by use of funds carried over from prior campaigns is both compelling and served by the restriction set forth in subsection (2). This provision is narrowly tailored to accomplish the state's legitimate interest. Citizens for Responsible Gov't State Political Action Comm. v. Buckley, 60 F. Supp. 2d 1066 (D. Colo. 1999).

Candidate's disclosure report not required to report unexpended campaign funds at the end of an election cycle as contributions from a political party. To accomplish the purpose of subsection (5), it

is necessary only that a candidate committee report the amount of unexpended campaign funds on hand at the end of an election cycle. To report money already on hand as a fictional, new contribution from an unidentified political party would artificially inflate the amount of funds reportedly available to a candidate committee and would be confusing to those who read the report. Williams v. Teck, 113 P.3d 1255 (Colo. App. 2005).

Candidate committee permitted to use unexpended contributions to pay elected state senator's legal fees. Although legal fees are not specifically mentioned as permissible expenses under subsection (1)(b)(V), the words "including, but not limited to," indicate that the statute merely illustrates the kinds of expenses that may be regarded as directly related to an elected official's duties. Here, the legal fees may properly be characterized as directly related to official duties of elected state senator. The senator's duties include filing periodic reports with the secretary of state, and the fees were reasonably necessary to demonstrate that senator and his or her committee had properly performed this duty. Williams v. Teck, 113 P.3d 1255 (Colo. App. 2005).

1-45-107. Independent expenditures. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

Editor's note: (1) This section was similar to former § 1-45-110.5 as it existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

1-45-107.5. Independent expenditures - restrictions on foreign corporations - registration - disclosure - disclaimer requirements - definitions.

(1) Notwithstanding any other provision of law, no natural person who is not a citizen of the United States, foreign government, or foreign corporation may expend money on an independent expenditure in connection with an election of a candidate in the state, and no independent expenditure committee may knowingly accept a donation from any natural person who is not a citizen of the United States, any foreign government, or any foreign corporation.

(2) In accordance with the decision of the supreme court of Colorado in the case of *In re Interrogatories Propounded by Governor Bill Ritter, Jr., Concerning the Effect of Citizens United v. Federal Election Comm'n, 558 U.S. ___ (2010), on Certain Provisions of Article XXVIII of the Constitution of the State of Colorado,* 227 P.3d 892 (Colo. 2010), notwithstanding sections 3 (4)(a) and 6 (2) of article XXVIII of the state constitution, corporations and labor organizations shall not be prohibited from making independent expenditures. All such expenditures shall be disclosed in accordance with the requirements of this article and article XXVIII of the state constitution. For purposes of this article and article XXVIII of the state constitution, any use of the word "person" shall be construed to include, without limitation, any corporation or labor organization.

(3) (a) Any person that accepts a donation that is given for the purpose of making an independent expenditure in excess of one thousand dollars or that makes an independent expenditure in excess of one thousand dollars shall register with the appropriate officer within two business days of the date on which an aggregate amount of donations accepted or expenditures made reaches or exceeds one thousand dollars.

(b) The registration required by paragraph (a) of this subsection (3) shall include a statement listing:

(I) The person's full name, spelling out any acronyms used therein;

(II) A natural person authorized to act as a registered agent;

(III) A street address and telephone number for the principal place of operations; and

(IV) The aggregate ownership interest in the person held by foreign persons calculated as of the time the person registers with the appropriate officer under paragraph (a) of this subsection (3).

(c) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a corporation, a subsidiary may register on behalf of its parent corporation or for other subsidiaries of the parent corporation, and the parent corporation may register on behalf of all of its subsidiaries. In each such case, the registered agent of the person registering shall serve as the registered agent for all such affiliated corporations. Registration of a subsidiary shall include the name of its parent corporation as well as any names under which the subsidiary does business.

(d) If the person identified in subparagraph (I) of paragraph (b) of this subsection (3) is a labor organization, a local labor organization may register on behalf of any affiliated local, national, or international labor organization that will be making independent expenditures, and a national or international labor organization may register on behalf of any affiliated local labor organization that will be making independent expenditures. In each such case, the registered agent of the labor organization that is registering shall serve as the registered agent for each affiliated local, national, or international labor organization.

(4) (a) In addition to any other applicable disclosure requirements specified in this article or in article XXVIII of the state constitution, any person making an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall report the following to the appropriate officer:

(I) The person's full name, or, if the person is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(II) All names under which the person does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (a);

(III) The address of the home office of the person, or, if the person is a subsidiary of a parent corporation, the home office of the parent corporation; and

(IV) The name and street address in the state of its registered agent.

(b) (I) Any person who expends an aggregate amount in excess of one thousand dollars or more per calendar year for the purpose of making an independent expenditure shall report to the appropriate officer, in accordance with the requirements of this section, the name and address of any person that, for the purpose of making an independent expenditure, donates more than two hundred fifty dollars per year to the person expending one thousand dollars or more on an independent expenditure.

(II) If the person making the donation of two hundred fifty dollars or more is a natural person, the disclosure required by subparagraph (I) of this paragraph (b) shall also include the donor's occupation and employer.

(III) If the person making the donation of two hundred fifty dollars or more is not a natural person, the disclosure required by this paragraph (b) shall also include:

(A) The donor's full name, or, if the donor is a subsidiary of a parent corporation, the full name of the parent corporation, spelling out any acronyms used therein;

(B) All names under which the donor does business in the state if such names are different from the name identified pursuant to subparagraph (I) of this paragraph (b);

(C) The address of the home office of the donor, or, if the donor is a subsidiary of a parent corporation, the home office of the parent corporation; and

(D) The name and street address in the state of the donor's registered agent.

(c) The information required to be disclosed pursuant to paragraph (a) of this subsection (4) must be reported in accordance with the schedule specified in section 1-45-108 (2) for political committees; except that any person making an independent expenditure in excess of one thousand dollars within thirty days before a primary, general, or regular biennial school election shall provide such report within forty-eight hours after obligating moneys for the independent expenditure.

(5) (a) In addition to any other applicable requirements provided by law, and subject to the provisions of this section, any communication that is broadcast, printed, mailed, delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed that constitutes an independent expenditure for which the person making the independent expenditure expends in excess of one thousand dollars on the communication shall include in the communication a statement that:

(I) The communication has been "paid for by (full name of the person paying for the communication)"; and

(II) Identifies a natural person who is the registered agent if the person identified in subsection (5)(a)(I) of this section is not a natural person.

(b) In the case of a broadcast or online video or audio communication, the statement required by subsection (5)(a) of this section shall satisfy all applicable requirements promulgated by the federal communications commission for size, duration, and placement.

(c) In the case of a nonbroadcast communication, including an online communication, the secretary of state shall, by rule, establish size and placement requirements for the disclaimer statement. If the size, format, or display requirements of the communication make it impracticable to include a disclaimer statement on the communication, the rules must require that the disclaimer statement be available by means of a direct link from the communication to the web page or application screen containing the statement.

(6) Any person that expends an aggregate amount in excess of one thousand dollars on an independent expenditure in any one calendar year shall deliver written notice to the appropriate officer that shall list with specificity the name of the candidate whom the independent expenditure is intended to support or oppose. Where the independent expenditure is made within thirty days before a primary, general, or regular biennial school election, the notice required by this subsection (6) must be delivered within forty-eight hours after the person obligates moneys for the independent expenditure.

(7) Any person that accepts any donation that is given for the purpose of making an independent expenditure or expends any moneys on an independent expenditure in an aggregate amount in excess of one thousand dollars in any one calendar year shall establish a separate

account in a financial institution, and the title of the account shall indicate that it is used for such purposes. All such donations accepted by such person for the making of any such independent expenditures shall only be deposited into the account, and any moneys expended for the making of such independent expenditure shall only be withdrawn from the account. As long as the person uses a separate account for the purposes of this subsection (7), in any complaint relating to the use of the person's account, no discovery may be made of information relating to the identity of the person's members and general donors and any discovery is limited to the sources, amounts, and uses of donations deposited into and expenditures withdrawn from the account.

(8) Any person that expends moneys on an independent expenditure in excess of one thousand dollars, regardless of the medium of the communication produced by the expenditure, shall disclose to the secretary of state, in accordance with the schedule specified in section 1-45-108 (2) for political committees, any donation in excess of twenty dollars given in that reporting period for the purpose of making an independent expenditure.

(9) Repealed.

(10) Any earmarked donation given for the purpose of making an independent expenditure in excess of one thousand dollars shall be disclosed as a donation from both the original source of the donation and the person transferring the donation.

(11) On reports it files with the appropriate official, an independent expenditure committee that obligates in excess of one thousand dollars for an independent expenditure shall disclose a good faith estimate of the fair market value of the expenditure if the committee does not know the actual amount of the expenditure as of the date that a report is required to be filed with the appropriate official.

(12) All information required to be disclosed to the secretary of state under this section shall be posted on the website of the secretary within two business days after its receipt by the secretary.

(13) Notwithstanding any other provision of this section, any requirement contained in this section that is applicable to a corporation shall also be applicable to a labor organization.

(14) (a) Any covered organization that contributes, donates, or transfers ten thousand dollars or more to any person, earmarked for the purpose of making an independent expenditure or electioneering communication, during any one calendar year, shall provide to the recipient of the contribution, donation, or transfer an affirmation, in writing, that includes the information listed in subsection (14)(d) of this section. After reaching the ten thousand dollar threshold, the covered organization shall provide a new affirmation statement for each qualifying subsequent contribution, donation, or transfer during that calendar year.

(b) Any covered organization that transfers ten thousand dollars or more to any person, earmarked for the purpose of that person making a contribution, donation, or transfer to pay for

an independent expenditure or electioneering communication, during any one calendar year, shall provide to the recipient of the transfer an affirmation, in writing, that includes the information listed in subsection (14)(d) of this section. After reaching the ten thousand dollar threshold, the covered organization shall provide a new affirmation statement for each qualifying subsequent transfer during that calendar year.

(c) A person shall not accept a contribution, donation, or transfer as described in subsection (14)(a) or (14)(b) of this section from a covered organization unless the covered organization provides a written affirmation to the recipient satisfying the requirements of subsection (14)(d) of this section. The recipient shall include the written affirmation when reporting the independent expenditure or electioneering communication to the appropriate filing officer and shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the affirmation was received.

(d) The affirmation required by this subsection (14) must include:

(I) The name of the covered organization and its principal place of business;

(II) The amount of the contribution, donation, or transfer and the name of the person who received the contribution, donation, or transfer;

(III) (A) If the covered organization is a for-profit corporation, each beneficial owner's name and current residence or business address and, if a listed beneficial owner exercises control over the entity through another legal entity, such as a corporation, partnership, limited liability company, or trust, each such other legal entity and each such beneficial owner who will use that other entity to exercise control over the entity.

(B) For purposes of this subsection (14)(d)(III), "beneficial owner" means a corporation's officers, directors, and owners of more than five percent of the corporation.

(IV) (A) If the covered organization is not a for-profit corporation but is subject to disclosure under subsection (14)(a) or (14)(b) of this section, a list of any person who transferred five thousand dollars or more to the covered organization and who earmarked that transfer of funds for the purpose of making an independent expenditure or electioneering communication as determined by the earlier of either the preceding twelve-month period that ends on the date of the transmission of the independent expenditure or electioneering communication or that ends on the date of the transfer.

(B) A covered organization is not required to include a natural person's name if disclosure of that person would lead to a reasonable probability of harm, threats, harassment, or reprisals to the person or to individuals affiliated with that person.

(C) A covered organization may only redact a person's name from its report under subsection (14)(d)(IV)(B) of this section if the person has affirmed on a form provided by the secretary of state, under oath, that the person believes there is a reasonable probability that they will be

subject to harm, threats, harassment, or reprisal if disclosed. The covered organization shall retain the affirmation for not less than one year and shall produce the affirmation to the secretary of state's office in response to a request for information related to any investigation of a campaign finance violation. The affirmation must remain confidential during the pendency of any investigation and complaint with a hearing officer under section 1-45-117.5. Following a final agency decision finding that the individual whose name was redacted does not meet the requirements of this subsection (14)(d)(IV)(C), including the applicable period for appeal, the affirmation is no longer confidential and is subject to public review.

(D) If the contribution, donation, or transfer under subsection (14)(a) or (14)(b) of this section is from another covered organization, the covered organization shall provide a list of persons who transferred to that covered organization consistent with subsections (14)(d)(IV)(B) and (14)(d)(IV)(C) of this section.

(V) A covered organization need not include a transfer made for a commercial transaction in the ordinary course of any trade or business conducting by the covered organization.

(VI) A certification by the chief executive officer or person who is the head of the covered organization stating that the contribution, donation, or transfer is not made in cooperation, consultation, or concert with or at the request or suggestion of a candidate, authorized committee, or agent of a candidate, political party, or agent of a political party.

(e) For purposes of this subsection (14), "covered organization" means a corporation, including an entity organized under section 501(c) or 527 of the internal revenue code, a labor organization, or an independent expenditure committee. It does not include a small donor committee, political party committee, or candidate committee.

(f) For purposes of this subsection (14), "transfer", "donate", or "contribute" does not include the provision of funds to a vendor or in payment of a contract for goods or services.

Source: L. 2010: Entire section added, (SB 10-203), ch. 269, p. 1231, § 4, effective May 25. **L. 2016:** (4)(c) and (6) amended, (HB 16-1282), ch. 267, p. 1106, § 2, effective August 10. **L. 2018:** (9) repealed, (HB 18-1047), ch. 155, p. 1092, § 3, effective April 23. **L. 2019:** (1) and (5) amended and (14) added, (HB 19-1318), ch. 328, p. 3042, § 3, effective August 2. **L. 2023:** (1) amended, (SB 23-276), ch. 399, p. 2395, § 49, effective June 6.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 269, Session Laws of Colorado 2010.

ANNOTATION

Registered agent disclosure requirement imposed on issue committees is unconstitutional. The requirement imposed by subsection (5) and § 1-45-108.3 that an issue committee disclose the identity of the registered agent of the entity paying for the communication on certain election-related communications distributed to the voting public is unconstitutional and violates the free speech clause of the first amendment to the United States Constitution. No on EE v. Beall, 2024 COA 79, 558 P.3d 671.

An independent expenditure committee operating without the control or coordination of a political party is able to collect contributions or make independent expenditures — expenditures not controlled by or coordinated with any candidate — that are not subject to the source and contribution limits that restrict political parties under § 3(3) of article XXVIII of the state constitution and under this act. Colo. Republican Party v. Williams, 2016 COA 26, 370 P.3d 650.

Independent expenditure committee not required to disclose payments made by state political party on its behalf as donations unless they were given for the purpose of making an independent expenditure. The payments were made to satisfy committee's administrative penalties and costs. Thus, payments were not given for the purpose of making an independent expenditure. Campaign Integrity v. Colo. Rep. Party, 2017 COA 32, 395 P.3d 1192.

Nor is the independent expenditure committee required to report the payments as contributions. This section does not require an independent expenditure committee to disclose a "contribution". The definition of contribution does not include payments made to or for the benefit of an independent expenditure committee. Campaign Integrity v. Colo. Rep. Party, 2017 COA 32, 395 P.3d 1192.

Nor is the independent expenditure committee required to report the payments as expenditures. An "expenditure" generally means payments "expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question." The payments were not expressly advocating the election or defeat of a candidate or supporting or opposing a ballot issue or ballot question; therefore, they did not satisfy the general definition of expenditure. Campaign Integrity v. Colo. Rep. Party, 2017 COA 32, 395 P.3d 1192.

1-45-108. Disclosure - definitions - repeal.

(1) (a) (I) Subject to subsection (1.5) of this section, all candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the appropriate officer their contributions received, including the name and address of each person who has contributed twenty dollars or more; expenditures made, and obligations entered into by the committee or party.

(II) Subject to subsection (1.5) of this section, in the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(III) Any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall report to the secretary of state, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making a contribution of more than two hundred fifty dollars is a natural person, the disclosure required by this section must also include the person's occupation and employer. Electioneering communication reports must include the name of the candidate or candidates unambiguously referred to in the electioneering communication or regular biennial school electioneering communication. In accordance with section 1-45-103 (9), an electioneering communication includes any communication that satisfies all other requirements set forth in section 2 (7) of article XXVIII of the state constitution but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

(IV) In the case of a limited liability company, the disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.

(V) Any disbursement not otherwise defined as an expenditure may be reported to the appropriate officer.

(VI) Any person, after expending five thousand dollars in aggregate in a calendar year on direct ballot issue or ballot question expenditures, shall, for each additional expenditure of one thousand dollars or more, report to the secretary of state in accordance with the disclosure required by this section: The amount of the expenditure, the purpose for which the expenditure was made, the date of the expenditure, name and address of the payee, and the ballot question or ballot issue supported or opposed. Such a report must be filed with the secretary of state no later than forty-eight hours after the direct ballot issue or ballot question expenditure was made.

(b) (Deleted by amendment, L. 2003, p. 2158, § 3, effective June 3, 2003.)

(c) A candidate committee in a special district election is not required to file reports under this section until the committee has received contributions or made expenditures exceeding two hundred dollars in the aggregate during the election cycle.

(d) For purposes of this section, a political party shall be treated as a separate entity at the state, county, district, and local levels.

(e) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

(1.5) Notwithstanding any other provision of law, in light of the opinion of the United States court of appeals for the tenth circuit in the case of *Coalition for Secular Government v. Williams*, no. 14-1469 (10th circuit March 2, 2016), that affirmed the order of the federal district court in the case of *Coalition for Secular Gov't v. Gessler,* case no. 12 CV 1708, the disclosure requirements specified in subsection (1)(a)(I) or (1)(a)(II) of this section and the reporting requirements specified in subsection (3.3) or (6) of this section shall not apply to a small-scale issue committee. A small-scale issue committee shall disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures in accordance with the following alternative requirements:

(a) A small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that does not exceed two hundred dollars is not required to disclose or file reports about the contributions or expenditures it has made or received or otherwise register as an issue committee in connection with accepting or making such contributions or expenditures.

(b) (I) A small-scale issue committee that accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle of between two hundred dollars and five thousand dollars shall register with the appropriate officer within ten business days of the date on which the aggregate amount of contributions or expenditures exceeds two hundred dollars. The registration required by this subsection (1.5)(b)(I) must include a statement listing:

(A) The committee's full name, spelling out any acronyms used in the name;

(B) The name of a natural person authorized to act as a registered agent of the committee;

(C) A street address for the principal place of business of the committee;

(D) The purpose or nature of interest of the committee; and

(E) The name of the financial institution in which, in a separate account bearing the name of the committee, all contributions received by the committee are deposited.

(II) A small-scale issue committee described in subsection (1.5)(b)(I) of this section is not required to make any disclosure about any contributions or expenditures it has made or received.

(c) (I) At such time as an issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall report to the appropriate officer, for each particular contribution or expenditure accepted or made, the name and address of each person who has made such contribution and the amount of each specific contribution and expenditure accepted or made by the committee.

(II) At such time as any issue committee that began as a small-scale issue committee accepts or makes contributions or expenditures in an aggregate amount during any applicable election cycle that exceeds five thousand dollars, the committee shall make disclosure of any contributions or expenditures it accepts or makes on or after the date on which such aggregate amount exceeds five thousand dollars in compliance with all applicable requirements under this article 45 pertaining to the disclosure by an issue committee of its contributions or expenditures accepted or made.

(III) Within fifteen days of a small-scale issue committee becoming subject to the applicable requirements governing an issue committee under this article 45, the committee through its registered agent shall report this change in the committee's status to the secretary of state.

(2) (a) (I) Except as provided in subsections (2)(a)(V), (2)(a)(VI), (2.1), (2.5), (2.7), and (6) of this section, such reports that are required to be filed with the secretary of state must be filed:

(A) Quarterly in off-election years no later than the fifteenth calendar day following the end of the applicable quarter;

(B) On the first Monday in May and on each Monday every two weeks thereafter before the primary election;

(C) On the first day of each month beginning the sixth full month before the major election; except that no monthly report shall be required on the first day of the month in which the major election, major political party vacancy election conducted pursuant to section 1-12-203 (1.5), or county commissioner vacancy election is held;

(D) On the first Monday in September and on each Monday every two weeks thereafter before the major election, major political party vacancy election conducted pursuant to section 1-12-203 (1.5), or county commissioner vacancy election;

(E) Thirty-five days after a major election in election years or after a major political party vacancy election; and

(F) Fourteen days before and thirty days after a special legislative election or county commissioner vacancy election held in an off-election year.

(II) Such reports that are required to be filed with the municipal clerk for municipalities with a population of less than one thousand and such reports required to be filed pursuant to section 1-

45-109 (1)(a)(II) and (1)(c) must be filed on the twenty-first day and on the Friday before and thirty-five days after the primary election, where applicable, and the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs.

(II.5) Such reports that are required to be filed with the municipal clerk for municipalities that have a population of one thousand or more must be filed no later than sixty days, thirty days, and fifteen days before, and thirty days after the major election in election years and annually in off-election years on the first day of the month in which the anniversary of the major election occurs; except that, for a runoff election reports must be filed no later than fifteen days before and fifteen days after the runoff election.

(III) For purposes of this section, "election year" means every even-numbered year for political parties and political committees and each year in which the particular candidate committee's candidate, or issue committee's issue, appears on the ballot, including a regular biennial school election; and "major election" means the election that decides an issue committee's issue, the election that elects a person to the public office sought by the candidate committee's candidate, and a regular biennial school election.

(IV) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(V) Any political committee, small donor committee, independent expenditure committee, or political organization that is participating in a regular biennial school election shall file its disclosure reports in accordance with the filing schedule specified in sub-subparagraphs (C) to (E) of subparagraph (I) of this paragraph (a) as of the date the committee or organization, as applicable, makes an expenditure or undertakes spending in connection with that election.

(VI) Such reports that are required to be filed with the secretary of state for contributions received and expenditures made related to vacancy contenders must be filed on the Monday of each week during the election cycle for the vacancy committee selection process used to fill a vacancy in the general assembly pursuant to section 1-12-203.

(b) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

(c) All reports filed with the secretary of state pursuant to this subsection (2) shall be for the reporting periods established pursuant to rules promulgated by the secretary of state in accordance with article 4 of title 24, C.R.S.

(d) A candidate committee for a former officeholder or a person not elected to office that has no change in the balance of funds maintained by such committee, receives no contributions,

makes no expenditures, and enters into no obligations during a reporting period shall not be required to file a report under this section for such period.

(e) The reporting period for all reports required to be filed with the municipal clerk and such reports required to be filed pursuant to section 1-45-109 (1)(a)(II) and (1)(c) shall close five calendar days prior to the effective date of filing.

(2.1) Except as otherwise provided in subsection (2.2) of this section, in the case of a regular biennial school election or a special school election, a candidate committee for school district director shall file reports that are required to be filed with the secretary of state according to the filing schedule specified in subsections (2)(a)(I)(A), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E) of this section.

(2.2) In connection with a recall election of a school district director, reports of contributions and expenditures must be filed in accordance with the deadlines that are specified in subsection (6) of this section.

(2.3) Repealed.

(2.5) (a) Except as provided in subsection (2.5)(b) of this section, and in addition to any report required to be filed with the secretary of state or municipal clerk under this section, all candidate committees, issue committees, and political parties must file a report with the secretary of state of any contribution of one thousand dollars or more at any time within thirty days preceding the date of the primary election, general election, regular biennial school election, or special school election, as applicable. This report must be filed with the secretary of state no later than twenty-four hours after the receipt of said contribution.

(b) Notwithstanding the provisions of subsection (2.5)(a) of this section, the following committees need not file the reports described in subsection (2.5)(a) of this section in the following instances:

(I) An issue committee need not report a contribution of one thousand dollars or more preceding a primary election;

(II) A committee for a candidate not on the ballot need not report a contribution of one thousand dollars or more during the off-election year;

(III) A candidate or candidate committee for school board need not report a contribution of one thousand dollars or more during the off-election year; and

(IV) A political party during the off-election year.

(2.7) Any candidate or candidate committee supporting any candidate, including an incumbent, in a recall election, shall file reports of contributions and expenditures with the appropriate officer fourteen and seven days before the recall election and thirty days after the recall election.

(3) Except as otherwise provided in subsection (3.5) of this section, all candidate committees, political committees, small donor committees, and political parties shall register with the appropriate officer before accepting or making any contributions. Registration shall include a statement listing:

(a) The organization's full name, spelling out any acronyms used therein;

(b) A natural person authorized to act as a registered agent;

(c) A street or mailing address and telephone number for the principal place of operations;

(d) All affiliated candidates and committees;

(e) The purpose or nature of interest of the committee or party.

(f) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1, 2010.)

(3.3) Subject to subsections (1.5) and (7) of this section, each issue committee shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose any ballot issue or ballot question or upon receipt of the notice from the secretary of state pursuant to section 1-40-113 (1)(b). If required to register under the requirements of this subsection (3.3), the registration of the issue committee must include a statement containing the items listed in paragraphs (a) to (e) of subsection (3) of this section in connection with other committees and a political party.

(3.5) Any political committee that has registered with the federal election commission may file with the appropriate officer a copy of the registration filed with the federal election commission and, insofar as such registration contains substantially the same information required by subsection (3) of this section, the political committee shall be considered to have registered with the appropriate officer for purposes of subsection (3) of this section and, therefore, shall be authorized to accept or make contributions as permitted by law. Any political committee that satisfies the requirements of this subsection (3.5) shall be subject to all other legal requirements pertaining to contributions and disclosure that are applicable to political committees.

(4) (Deleted by amendment, L. 2010, (SB 10-041), ch. 151, p. 522, § 2, effective July 1, 2010.)

(5) The registration and reporting requirements of this section shall not apply to that part of the organizational structure of a political party which is responsible for only the day-to-day operations of such political party at the national level if copies of the reports required to be filed with the Federal Election Commission pursuant to the "Federal Election Commission Act of 1971", as amended, are filed with the secretary of state and include the information required by this section.

(6) Subject to subsection (1.5) of this section, any issue committee whose purpose is the recall of any elected official shall register with the appropriate officer within ten calendar days of accepting or making contributions or expenditures in excess of two hundred dollars to support or oppose the recall. Reports of contributions and expenditures shall be filed with the appropriate officer within fifteen days of the filing of the committee registration and every thirty days thereafter until the date of the recall election has been established and then fourteen days and seven days before the recall election and thirty days following the recall election.

(7) (a) Notwithstanding any other provision of law, and subject to subsection (7)(b) of this section, a matter is considered a ballot issue or a ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article 45 and article XXVIII of the state constitution, at the earliest of the following:

(I) A title for the matter has been designated and fixed in accordance with law and any motion for rehearing has been heard;

(II) The matter has been referred to the voters by the general assembly, as evidenced when the measure is passed by the general assembly, or the governing body of any political subdivision of the state with authorization to refer matters to the voters;

(III) In the case of a citizen referendum petition, the matter has been submitted for format approval in accordance with law;

(IV) A petition concerning the matter has been circulated and signed by at least one person; except that, where a matter becomes a ballot issue or ballot question upon such signing, any person opposing the matter shall not be considered to be an issue committee for purposes of this article and article XXVIII of the state constitution until one such person knows or has reason to know of the circulation; or

(V) A signed petition has been submitted to the appropriate officer in accordance with law.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (7), where a matter concerns a municipal annexation brought pursuant to article 12 of title 31, C.R.S., the matter shall not be considered to be a ballot issue or ballot question for the purpose of determining whether an issue committee has been formally established, thereby necessitating compliance with any disclosure and reporting requirements of this article and article XXVIII of the state constitution, unless and until the first notice of the annexation election has been published in accordance with the requirements of section 31-12-112 (6), C.R.S.

(8) (a) Any expenditure or spending on a covered communication that is controlled by or coordinated with a candidate or candidate's agent or a political party is considered both a contribution by the maker of the expenditure or spending, and an expenditure by the candidate committee.

(b) For purposes of this subsection (8), "covered communication" includes:

(I) A communication that expressly advocates for the election or defeat of a candidate;

(II) An electioneering communication as defined in section 2 (7) of article XXVIII of the state constitution and section 1-45-103 (9), or regular biennial electioneering communication as defined in section 1-45-103 (15.5); and

(III) A communication by a political organization that influences or attempts to influence the selection, nomination, election, or appointment of a candidate to public office.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (1), (2)(a), and IP(3) amended, p. 223, § 2, effective April 10; (2)(c) added, p. 951, § 3, effective May 27. **L. 99:** (2)(a) amended and (2)(c)(V) and (2)(c)(VI) added, p. 1391, §§ 14, 15, effective June 4. **L. 2000:** (2)(a) and (2)(c) amended and (2)(d), (2.3), and (2.5) added, pp. 124, 125, §§ 5, 6, effective March 15; (1) amended, p. 1725, § 2, effective June 1; (2)(e) added, p. 791, § 2, effective August 2. **L. 2001:** (3)(f) added, p. 808, § 1, effective August 8; (2.3) amended, p. 1111, § 2, effective September 1. **L. 2002:** IP(2)(a)(I) and (6) amended and (2.7) added, p. 198, § 2, effective April 3; (1)(c) added, p. 1640, § 33, effective June 7. **L. 2003:** (1)(a), (1)(b), (2.3)(a), (2.5), IP(3), and (3)(f) amended and (1)(d) added, p. 2158, § 3, effective June 3. **L. 2004:** (1)(e) and (3.5) added and IP(3) amended, p. 864, §§ 2, 3, effective May 21. **L. 2007:** IP(2)(a)(I) amended, p. 2017, § 2, effective June 1; IP(2)(a)(I) and (2)(a)(I)(B) amended, p. 1299, § 2, effective July 1. **L. 2008:** (1)(a)(IV) added, p. 441, § 2, effective April 14. **L. 2009:** (2)(a)(II), (2)(e), and (2.5) amended, (HB 09-1357), ch. 361, p. 1871, § 1, effective July 1; IP(3) and (3)(f) amended and (3.3) and (7) added, (HB 09-1153), ch. 174, p. 774, § 2, effective September 1. **L. 2010:** (1)(a)(III), (3)(f), (3.3), (4), and (6) amended, (SB 10-041), ch. 151, p. 522, § 2, effective July 1; (3.3) amended, (HB 10-1370), ch. 270, p. 1241, § 5, effective January 1, 2011. **L. 2012:** (2)(a)(I)(B) amended, (SB 12-014), ch. 1, p. 1, § 1, effective January 30; (1)(c) amended, (HB 12-1269), ch. 83, p. 274, § 1, effective August 8. **L. 2016:** (1)(a)(I), (1)(a)(II), (3.3), and (6) amended and (1.5) added, (SB 16-186), ch. 269, p. 1114, § 2, effective June 10; (1)(a)(III), IP(2)(a)(I), (2)(a)(III), and (2.5) amended and (2)(a)(V) added, (HB 16-1282), ch. 267, p. 1106, § 3; effective August 10. **L. 2018:** (1)(a)(III), (2.5), IP(7)(a), and (7)(a)(I) amended and (1)(a)(V) added, (HB 18-1047), ch. 155, p. 1093, § 4, effective April 23. **L. 2019:** (1)(a)(III) amended, (SB 19-068), ch. 69, p. 250, § 2, effective August 2; (1.5) R&RE and (8) added, (HB 19-1318), ch. 328, p. 3044, § 4, effective August 2. **L. 2022:** IP(2)(a)(I) and (2.5)(a) amended and (2.1) and (2.2) added, (HB 22-1060), ch. 99, p. 473, § 3, effective July 1; IP(2)(a)(I), (2)(a)(I)(E), (2)(a)(II), (2.5)(b)(II), and (2.5)(b)(III) amended and (2.5)(b)(IV) added, (HB 22-1156), ch. 108, p. 495, § 1, effective August 10; (1)(a)(VI) added, (SB 22-237), ch. 400, p. 2852, § 2, effective September 1. **L. 2023:** (7)(a)(II) amended, (SB 23-276), ch. 399, p. 2396, § 50, effective June 6; (2)(a)(II) amended and (2)(a)(II.5) added, (HB 23-1245), ch. 417, p. 2467, § 2, effective January 1, 2024. **L. 2025:** (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(F) amended, (HB

25-1319), ch. 272, p. 1409, § 6, effective May 28; IP(2)(a)(I), (2)(a)(I)(C), (2)(a)(I)(D), and (2)(a)(I)(E) amended and (2)(a)(VI) added, (HB 25-1315), ch. 180, p. 775, § 7, effective August 6. **L. 2026:** (3)(c) amended, (HB 26-1422), ch. 331, p. 1932, § 8, effective June 2.

Editor's note: (1) This section is similar to former § 1-45-108 as it existed prior to 1996.

(2) The numbering of this section originated in an initiated measure. As a result of an amendment to this section by House Bill 00-1194, subsections (2)(a)(I) and (2)(a)(II) as they existed prior to March 15, 2000, were renumbered on revision as (2)(a)(III) and (2)(a)(IV).

(3) Subsection (2.3)(b) provided for the repeal of subsection (2.3), effective January 1, 2007. (See L. 2001, p. 1111.)

(4) Amendments to subsection (3.3) by Senate Bill 10-041 and House Bill 10-1370 were harmonized.

(5) Prior to the reenactment of subsection (1.5) on August 2, 2019, subsection (1.5)(d) provided for the repeal of subsection (1.5), effective June 30, 2019. (See. L. 2016, p. 1114.)

(6) Amendments to subsection IP(2)(a)(I) by HB 22-1060 and HB 22-1156 were harmonized.

(7) Amendments to subsections (2)(a)(I)(C) and (2)(a)(I)(D) by HB 25-1319 and HB 25-1315 were harmonized.

Cross references: For the legislative declaration in the 2010 act amending subsection (3.3), see section 1 of chapter 270, Session Laws of Colorado 2010.

ANNOTATION

Law reviews. For article, "Campaign Finance and 527 Organizations: Keeping Big Money in Politics", see 34 Colo. Law. 71 (July 2005).

Act is neither unconstitutionally vague nor unconstitutionally overbroad. As to candidate's vagueness argument, court finds that act provides sufficient notice to persons of ordinary intelligence that expenditures, regardless of the source of the funds, must be reported. As to candidate's arguments that act is unconstitutionally overbroad and inhibits basic first amendment freedoms, court finds that, construed to preserve its constitutionality, the act does not inhibit a candidate's expenditures of personal funds so long as those expenditures are made through a candidate committee and reported in accordance with this section. Hlavec v. Davidson, 64 P.3d 881 (Colo. App. 2002).

The disclosure requirements contained in this section do not violate the right to

engage in anonymous speech and association. Disclosure of the contributors to ballot measures may constitutionally be required under the standards specified in Buckley v. Valeo, 424 U.S. 1 (1976). Challengers to disclosure requirements must show a reasonable probability that the compelled disclosure of contributors' names would subject them to threats, harassment, or reprisals from either government officials or private parties. Indep. Inst. v. Coffman, 209 P.3d 1130 (Colo. App. 2008).

Registration and disclosure requirements are unconstitutional as applied to ballot-initiative committee. There is virtually no proper governmental interest in imposing disclosure requirements on ballot-initiative committees that raise and expend minimal money, and limited interest cannot justify the burden that disclosure requirements impose on such a committee. Sampson v. Buescher, 625 F.3d 1247 (10th Cir. 2010); Coal. for Secular Gov't v. Williams, 815 F.3d 1267 (10th Cir. 2016).

The financial burden of state regulation on ballot initiative committee member's freedom of association approaches or exceeds the value of their financial contributions to their political effort; and the governmental interest in imposing those regulations is minimal, if not nonexistent, in light of the small size of the contributions. Therefore it is unconstitutional to impose that burden on the committee members. Sampson v. Buescher, 625 F.3d 1247 (10th Cir. 2010); Coal. for Secular Gov't v. Williams, 815 F.3d 1267 (10th Cir. 2016).

The reporting requirements of subsection (1)(a)(I) are not unconstitutional as applied to a political committee. The United States supreme court has consistently upheld disclosure and reporting requirements for political committees that exist primarily to influence elections. It makes no difference that the contributions were not used to directly influence an election — any contribution to a political committee that has the major purpose of influencing an election is deemed to be campaign related and thus justifies the burden of disclosure and reporting. Camp. Integ. Watchdog v. All. for Safe, 2018 CO 7, 409 P.3d 357.

The $200 contribution and expenditure threshold for issue committees under § 2(10)(a)(II) of article XXVIII and the retrospective reporting requirements for issue committees under subsection (1)(a)(I) of this section were not facially invalidated by the tenth circuit's holding in Sampson v. Buescher, 625 F.3d 1247 (10th Cir. 2010). The secretary of state promulgated 8 Colo. Code Regs. 1505-6, § 4.1 (rule 4.1), in response to Sampson. Because rule 4.1's $5,000 threshold and its retrospective reporting exemption clearly conflict with the still-valid constitutional and statutory provisions, rule 4.1 is unlawful and set aside. The secretary of state exceeded his authority in promulgating the rule. Gessler v. CO Common Cause & Ethics Watch, 2014 CO 44, 327 P.3d 232.

Although in promulgating rule 4.27 (later codified as rule 4.1), the secretary was attempting to clarify the registration and reporting requirements in light of Sampson, Sampson did not facially invalidate any provision of the campaign finance law, and,

to the extent Sampson impacts the future application of campaign finance laws on issue committees in a similar factual context, rule 4.27 exceeds the scope of Sampson. Colo. Common Cause v. Gessler, 2012 COA 147, 410 P.3d 451, aff'd, 2014 CO 44, 327 P.3d 232.

Under subsection (1)(a), candidate committees must disclose all expenditures and obligations, even if no contributions are received. Thus, if a candidate runs without a separate committee and finances the campaign from personal funds, the candidate is a candidate committee and must disclose expenditures and obligations as required by subsection (1)(a). Nothing in subsection (1)(a) indicates that expenditures must be reported only if drawn on outside contributions. Hlavec v. Davidson, 64 P.3d 881 (Colo. App. 2002).

Here, both candidate and the candidate committee made expenditures under the authority of the candidate. Thus, both the candidate and the committee were candidate committees or the candidate was acting through the formed committee. In either instance, the expenditures were subject to the disclosure requirements of subsection (1)(a). Hlavec v. Davidson, 64 P.3d 881 (Colo. App. 2002).

A political committee that has not been terminated is not exempt from mandatory reporting requirements, even if that political committee would qualify for termination. Campaign Integrity Watchdog LLC v. Griswold, 2025 COA 18, 568 P.3d 48.

"Obligations entered into" as used in subsection (1)(a)(I) includes only obligations entered into for making expenditures and does not cover activities by a committee that incur debt. It would be absurd to require reporting of all obligations to spend money regardless of purpose yet require reporting of money actually spent only for a single narrow purpose, express advocacy. Moreover, the Fair Campaign Practices Act ties the meaning of obligation to expenditures when it expressly defines "obligating" to mean an agreement to make, or indirect provision of, an independent expenditure. The definition of "obligating" in § 1-45-103 (12.7) indicates that the legislature intended to treat obligations no more broadly than it did actual spending. Camp. Integ. Watchdog v. All. for Safe, 2018 CO 7, 409 P.3d 357.

Candidate's disclosure report not required to report unexpended campaign funds at the end of an election cycle as contributions from a political party. It is necessary only that a candidate committee report the amount of unexpended campaign funds on hand at the end of an election cycle. To report money already on hand as a fictional, new contribution from an unidentified political party would artificially inflate the amount of funds reportedly available to a candidate committee and would be confusing to those who read the report. Williams v. Teck, 113 P.3d 1255 (Colo. App. 2005).

Payments to a law firm to defend political committee in a tort suit are a reportable contribution under § 2(5)(a)(II) of article XXVIII of the state

constitution. Because the law firm that defended the political committee and the court of appeals were both third parties in relation to the political committee, the payment of filing fees to the court and of legal fees to the law firm were "payment[s] made to a third party". And the payments were "for the benefit" of the political committee because they furthered the committee's legal defense. Because the payments of the political committee's legal expenses were "contributions" to the committee under section 2(5)(a)(II), the committee was required to report them as contributions under subsection (1)(a)(I) of this section. Camp. Integ. Watchdog v. All. for Safe, 2018 CO 7, 409 P.3d 357.

Order by administrative law judge (ALJ) assessing penalty against nonprofit association engaging in political advocacy based upon determination by ALJ that association was a political committee is vacated and case remanded. Under controlling precedent, regulation under campaign finance laws should be tied to groups controlled by candidates or which have a "major purpose" of electing candidates. Here, record does not permit a determination of whether major purpose test satisfied as to association. On remand, ALJ instructed to determine whether association's "major purpose" in 2004 was the nomination or election of candidates. All. for Colorado's Families v. Gilbert, 172 P.3d 964 (Colo. App. 2007).

ALJ had authority to impose appropriate sanction under § 9(2)(a) of article XXVIII of the state constitution for violation of this section. The appropriate officer may either directly sanction the offending party under § 10(2)(b) of article XXVIII or initiate a complaint under § 9(2)(a). Patterson Recall Comm., Inc. v. Patterson, 209 P.3d 1210 (Colo. App. 2009).

Nowhere in this article or in rules promulgated by secretary of state is the filing requirement conditioned upon posting by or receiving electronic transmissions from the county clerk and recorder. Instead, the requirement to disclose and file reports is unconditionally imposed until a committee is terminated. Patterson Recall Comm., Inc. v. Patterson, 209 P.3d 1210 (Colo. App. 2009).

Section 9(2)(a) of article XXVIII of the state constitution authorizes ALJ to render a decision upon a complaint and, if ALJ concludes that a violation has occurred, "such decision shall include any appropriate order, sanction, or relief authorized by this article". Nothing in the article, however, recognizes or grants a defense of "good faith", and an ALJ is not at liberty to engraft any limitation or restriction not specifically provided. Patterson Recall Comm., Inc. v. Patterson, 209 P.3d 1210 (Colo. App. 2009).

While § 9(2)(a) of article XXVIII of the state constitution requires ALJ to include in the decision an appropriate order, sanction, or relief as authorized by the terms of this article, ALJ has discretion to impose no section at all if he or she reasonably concludes one would not be appropriate. Patterson Recall Comm., Inc. v. Patterson, 209 P.3d 1210 (Colo. App. 2009).

Adoption of 8 Colo. Code Regs, 1505-6, § 9.3 of the Colorado secretary of state's rules concerning campaign and political finance requiring the name of the candidate unambiguously referred to in the electioneering communication to be included in the electioneering report was within the rulemaking authority of the secretary of state under § 9(1)(b) of article XXVIII of the state constitution and §§ 1-1-107 (2)(a) and 1-45-111.5 (1). Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

District court properly invalidated secretary of state's proposed rule, 8 Colo. Code Regs. 1505-6, § 18.1.8, that attempted to fill a gap in subsection (2.5) of this section by creating a uniform way to assess "good cause" and levy fines. The rule merely eliminates penalties after a contribution is first disclosed and after election day regardless of a showing of good cause. The rule applies equally to those who intentionally avoid reporting obligations as well as those who do not report due to inadvertence. So, because the rule does not fill a gap, but applies irrespective of whether there is actually good cause to reduce or eliminate penalties, the rule is manifestly contrary to § 10(2)(c) of art. XXVIII of the state constitution, which requires the secretary to set aside or reduce a penalty only upon a showing of good cause. Colo. Ethics Watch v. Gessler, 2013 COA 172M, 363 P.3d 727.

Allegations that political committee's registered agent had been disbarred and had fled the state were insufficient to demonstrate that political committee did not have an active registered agent; the registered agent was not required to be a Colorado resident and his disbarment was irrelevant. Campaign Integrity Watchdog LLC v. Griswold, 2025 COA 18, 568 P.3d 48.

1-45-108.3. Disclaimer statement - committees - electioneering communications - direct ballot issue or ballot question expenditures.

(1) A candidate committee, political committee, issue committee, small donor committee, political organization, political party, or other person making an expenditure in excess of or spending more than one thousand dollars per calendar year on a communication that must be disclosed under article XXVIII of the state constitution or under this article 45 or supports or opposes a ballot issue or ballot question, and that is broadcast, printed, mailed, delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed shall include in the communication a disclaimer statement in accordance with subsection (2) of this section.

(2) The disclaimer statement required by subsection (1) of this section must conform to the requirements specified in section 1-45-107.5 (5) for content, size, duration, and placement.

(3) In addition to any other applicable requirements provided by law, any person who expends one thousand dollars or more per calendar year on electioneering communications or regular biennial school electioneering communications shall, in accordance with the requirements specified in section 1-45-107.5 (5), state in the communication the name of the person making the communication. For purposes of this subsection (3), an "electioneering communication" also includes any communication that satisfies all other requirements set forth in section 2 (7) of article XXVIII of the state constitution but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

(4) Any person who makes a direct ballot issue or ballot question expenditure shall, pursuant to section 1-45-107.5 (5), state their name in any communication that is broadcast, printed, mailed, or delivered; placed on a website, streaming media service, or online forum for a fee; or that is otherwise distributed to persons who are eligible to vote on the ballot issue or ballot question and is produced or funded, either in whole or in part, by the person who made the direct ballot issue or ballot question expenditure.

Source: L. 2010: Entire section added, (HB 10-1370), ch. 270, p. 1242, § 6, effective January 1, 2011. **L. 2019:** (3) added, (SB 19-068), ch. 69, p. 251, § 3, effective August 2; entire section amended, (HB 19-1318), ch. 328, p. 3046, § 5, effective August 2. **L. 2022:** (4) added, (SB 22-237), ch. 400, p. 2853, § 3, effective June 7.

Editor's note: In No on EE v. Beall, 2024 COA 79, 558 P.3d 671, the Colorado Court of Appeals held that the requirement that an issue committee disclose the identity of the registered agent of the entity paying for the communication on certain election-related communications distributed to the voting public is unconstitutional and violates the free speech clause of the first amendment to the United States Constitution.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 270, Session Laws of Colorado 2010.

ANNOTATION

Registered agent disclosure requirement imposed on issue committees is unconstitutional. The requirement that an issue committee disclose the identity of the registered agent of the entity paying for the communication on certain election-related communications distributed to the voting public is unconstitutional and violates the free speech clause of the first amendment to

the United States Constitution. No on EE v. Beall, 2024 COA 79, 558 P.3d 671.

1-45-108.5. Political organizations - disclosure.

(1) Any political organization shall report to the appropriate officer in accordance with the requirements of sections 1-45-108 and 1-45-109:

(a) Any contributions it receives, including the name and address of each person who has contributed twenty dollars or more to the political organization in the reporting period, and the occupation and employer of each natural person who has made a contribution of one hundred dollars or more to the political organization; and

(b) Any spending by the political organization that exceeds twenty dollars in any one reporting period.

(2) No political organization shall accept a contribution, or undertake spending, in currency or coin exceeding one hundred dollars.

(3) Nothing in this section shall be construed to:

(a) Require any political organization to make any additional disclosure pursuant to this section to the extent the political organization is already providing disclosure as a committee or political party in a manner that satisfies the requirements of sections 1-45-108 and 1-45-109; or

(b) Authorize the secretary of state to require disclosure of the name of any natural person that is a member of an entity unless the natural person has made a contribution to a political organization in the amount of twenty dollars or more in a reporting period.

Source: L. 2007: Entire section added, p. 1225, § 3, effective July 1.

ANNOTATION

Uncompensated legal services are not contributions to a political organization under § 1-45-103 (6)(b). The constitutional definition of "contribution" does not address political organizations, and neither part of the definition in § 1-45-103 (6) covers legal services donated to political organizations. Section 1-45-103 (6)(b) does not apply to political organizations and the word "gift" in § 1-45-103 (6)(c)(I) does not include gifts of services. Coloradans Bet. Fut. v. Camp. Int. Watchdog, 2018 CO 6, 409 P.3d 350.

Payment by political organization of court costs did not meet the statutory definition of spending and, therefore, the political organization did not need to report it as such. The funds were not expended influencing or attempting to

influence the selection, nomination, election, or appointment of any individual to any state or local public office in the state under the definition of "spending" in § 1-45-103 (16.5). Camp. Int. Watchdog v. Colo. Better Future, 2016 COA 56M, 378 P.3d 852.

1-45-109. Filing - where to file - timeliness.

(1) For the purpose of meeting the filing and reporting requirements of this article 45:

(a) The following shall file with the secretary of state:

(I) Candidates for statewide office, the general assembly, district attorney, district court judge, school district director, or any office representing more than one county; the candidate committees for such candidates; political committees in support of or in opposition to such candidates; issue committees in support of or in opposition to an issue on the ballot in more than one county; small donor committees making contributions to such candidates; and persons expending one thousand dollars or more per calendar year on electioneering communications.

(II) Candidates in special district and school district director elections; the candidate committees of such candidates; political committees in support of or in opposition to such candidates; issue committees supporting or opposing a special district ballot issue; and small donor committees making contributions to such candidates.

(b) Candidates in municipal elections, their candidate committees, any political committee in support of or in opposition to such candidate, an issue committee supporting or opposing a municipal ballot issue, and small donor committees making contributions to such candidates shall file with the municipal clerk. An independent expenditure committee that makes expenditures in connection with a municipal election shall file with the municipal clerk.

(c) All other candidates, candidate committees, issue committees, political committees, and small donor committees shall file with the secretary of state.

(2) (a) Reports required to be filed by this article 45 are timely if received by the appropriate officer not later than the close of business on the due date.

(b) A person upon whom a penalty has been imposed for failure to file a statement or other information required to be filed pursuant to section 5, 6, or 7 of article XXVIII of the state constitution or section 1-45-108, this section, or section 1-45-110 by the due date may appeal the penalty by filing a written appeal with the appropriate officer no later than thirty days after the date on which notification of the imposition of the penalty was mailed to the person's last-known address. Upon receipt of an appeal pursuant to this paragraph (b), the appropriate officer shall set aside or reduce the penalty upon a showing of good cause.

(3) In addition to any other reporting requirements of this article, every incumbent in public office and every candidate elected to public office is subject to the reporting requirements of section 24-6-203, C.R.S.

(4) (a) All reports required to be filed by this article 45 are public records and are open to inspection by the public during regular business hours. A copy of the report must be kept by the appropriate officer and a copy shall be made available immediately in a file for public inspection. When the secretary of state is the appropriate officer, the secretary shall make reports viewable on the secretary of state's official website.

(b) and (c) Repealed.

(5) (a) The secretary of state shall operate and maintain a website so as to allow any person who wishes to review reports filed with the secretary of state's office pursuant to this article electronic read-only access to such reports free of charge.

(b) All reports required to be filed by this article that are electronically filed pursuant to subsection (6) of this section shall be made available immediately on the website.

(c) The website shall enable a user to produce summary reports based on search criteria that shall include, but not be limited to the reporting period, date, name of the person making a contribution or expenditure, candidate, and committee.

(d) At the earliest practicable date, the secretary of state shall develop and implement improvements to the website's design and structure to improve the public's ability to navigate, search, browse, download, and analyze information. Such improvements shall include but need not be limited to:

(I) Enhanced searching and summary reporting, including additional search fields such as zip code, employer, and vendor, the ability to search across multiple committees and all filers, the ability to filter or limit searches, such as by election cycle or candidate, the inclusion of smart-search features such as "name sounds like" or "name contains", and numerical totaling of amounts shown on search results;

(II) Features that facilitate the ability to download raw data and search results in one or more common formats to enable offline sorting and analyzing;

(III) Detailed, technical instructions for users;

(IV) Information to help users determine the scope of candidates' and committees' reports and campaign data available online, including explanations of which types of reports are available, the period covered by the online data, and which specific reports can be viewed for each campaign committee; and

(V) Resources that give the public comparative context when viewing campaign finance data, such as compilations of the total amounts of money raised and spent by individual

candidates, lists of total amounts raised and spent by all statewide and legislative candidates, and compilations of fundraising and spending across candidates and election cycles.

(e) The secretary of state may promulgate rules necessary for the implementation of this subsection (5). Such rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(6) (a) The secretary of state shall establish, operate, and maintain a system that enables electronic filing using the internet of the reports required by this article to be filed with the secretary of state's office. In accordance with the provisions of section 24-21-111 (1), C.R.S., the secretary may require any filing under this section to be made by electronic means as determined by the secretary. The rules for use of the electronic filing system shall be promulgated by the secretary in accordance with article 4 of title 24, C.R.S.

(b) Any person required to file with the secretary of state's office shall use the electronic filing system described in paragraph (a) of this subsection (6) in order to meet the filing requirements of this article, if so required by the secretary in accordance with paragraph (a) of this subsection (6), except insofar as an alternate method of filing may be permitted by the secretary. Where a person uses such electronic filing system to meet the filing requirements of this article, the secretary of state shall acknowledge by electronic means the receipt of such filing.

(7) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(8) (a) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(b) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) and (III) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

(c) (I) (Deleted by amendment, L. 2007, p. 1296, § 1, effective July 1, 2007.)

(II) (Deleted by amendment, L. 2009, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1, 2009.)

(9) Subsection (1) of this section shall not be construed to require the secretary of state to review reports electronically filed by persons beyond the duties specified in section 9 of article XXVIII of the state constitution.

(10) to (12) Repealed.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (4), (5), and (6) amended, p. 125, § 7, effective March 15. **L. 2001:** (1) amended and (7), (8), and (9) added, p. 808, § 2, effective August 8; (6)(b) amended, p. 1111, § 3, effective September 1. **L. 2002:** (1) and (4)(a) amended, p. 1640, § 34, effective June 7. **L.**

2003: (1) and (7)(b) amended, p. 2159, § 4, effective June 3. **L. 2005:** (9) amended, p. 760, § 7, effective June 1. **L. 2007:** (5), (6), (7), (8), and (9) amended, p. 1296, § 1, effective July 1; (2) amended, p. 1983, § 37, effective August 3. **L. 2009:** (1), (5)(a), (6), (8)(b)(II), (8)(b)(III), (8)(c)(II), and (9) amended and (10) added, (HB 09-1357), ch. 361, p. 1872, § 2, effective July 1. **L. 2010:** (11) added, (SB 10-203), ch. 269, p. 1235, § 5, effective May 25; (4)(b) and (6) amended, (SB 10-041), ch. 151, p. 523, § 3, effective July 1. **L. 2017:** (4)(b) amended and (4)(c) and (12) added, (HB 17-1155), ch. 236, p. 966, § 1, effective August 9. **L. 2018:** IP(1), (1)(a)(I), (2)(a), (4)(a), (4)(b), and (4)(c)(I) amended, (HB 18-1047), ch. 155, p. 1094, § 5, effective April 23. **L. 2019:** (4)(b), (4)(c), (11), and (12) repealed, (SB 19-232), ch. 330, p. 3065, § 3, effective July 1. **L. 2022:** (1)(a)(II) amended, (HB 22-1060), ch. 99, p. 474, § 4, effective July 1. **L. 2023:** (1)(b) amended, (HB 23-1245), ch. 417, p. 2467, § 3, effective January 1, 2024.

Editor's note: (1) This section is similar to former § 1-45-104 as it existed prior to 1996.

(2) Subsection (10)(e) provided for the repeal of subsection (10), effective January 1, 2011. (See L. 2009, p. 1872.)

Cross references: For the legislative declaration in the 2010 act adding subsection (11), see section 1 of chapter 269, Session Laws of Colorado 2010.

ANNOTATION

Administrative law judge (ALJ) correctly dismissed appellants' agency appeal under § 10 (2)(b)(I) of article XXVIII of the state constitution for lack of subject matter jurisdiction. No question that appellants were required to file reports with secretary of state under subsection (1) of this section once appellant-candidate became a candidate for the general assembly. This does not mean, however, appellants acquired right to appeal penalty to secretary of state. Report at issue was filed not in connection with appellant-candidate's candidacy for the general assembly but solely in connection with position as a county commissioner. Thus, ALJ correctly determined that, for purposes of report and penalty at issue, appellants were persons required to file appeal with county clerk and recorder, not with secretary of state. Sullivan v. Bucknam, 140 P.3d 330 (Colo. App. 2006).

Although appellants could have been required to file a report with the secretary of state in certain circumstances, those circumstances were not present in instant case. Appellants do not qualify as persons required to file with secretary of state under § 10 (2)(b)(I) of article XXVIII of the state constitution for purposes of underlying action merely because they could have been required to so file in other circumstances.

Sullivan v. Bucknam, 140 P.3d 330 (Colo. App. 2006).

Nowhere in this article or in rules promulgated by secretary of state is the filing requirement conditioned upon posting by or receiving electronic transmissions from the county clerk and recorder. Instead, the requirement to disclose and file reports is unconditionally imposed until a committee is terminated. Patterson Recall Comm., Inc. v. Patterson, 209 P.3d 1210 (Colo. App. 2009).

ALJ had jurisdiction to impose penalty for violation of Rule 9.3 and did not err by imposing a $1,000 penalty on political committee. Section (2)(a) of article XXVIII of the state constitution grants an ALJ authority to conduct hearings on alleged violations of the article and the "Fair Campaign Practices Act" and to impose penalties if a violation has occurred. Rule 9.3 is necessary to implement former § 1-45-109 (5), and, under subsection (2)(a) of this section, sanctions can be imposed for violations of this section. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

An organization that supports or opposes the retention of a judicial officer is a political committee because it supports or opposes the election of a candidate and because it is recognized as such by subsection (1)(a)(I). Organization accepted contributions and made expenditures of over $200 to oppose the retention of three justices of the Colorado supreme court. It is, therefore, a political committee. Organization cannot be both a political committee and issue committee because the two are defined under subsections (10) and (12) of art. XXVIII of the state constitution to be mutually exclusive. Colo. Ethics Watch v. Clear the Bench, 2012 COA 42, 277 P.3d 931.

1-45-110. Candidate affidavit - disclosure statement.

(1) When any individual becomes a candidate, such individual shall certify, by affidavit filed with the appropriate officer within ten days, that the candidate is familiar with the provisions of this article; except that an individual who is a candidate in a special legislative election that filed a candidate affidavit for the preceding general election shall not be required to comply with the provisions of this section, and except that a candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with section 1-13.5-303, if such form or letter contains a statement that the candidate is familiar with the provisions of this article, no later than the date established for certification of the special district's ballot pursuant to section 1-5-203 (3)(a). A candidate in a municipal election may comply with this section by filing a candidate affidavit pursuant to section 31-10-302 (6), C.R.S., if such affidavit contains a statement that the candidate is familiar with the provisions of this article.

(2) (a) Except as provided in subsection (2)(b) of this section, each candidate for the general assembly, governor, lieutenant governor, attorney general, state treasurer, secretary of state, state

board of education, regent of the university of Colorado, and district attorney shall file an accurate and complete statement disclosing the information required by section 24-6-202 (2) with the appropriate officer, on a form approved by the secretary of state, within ten days of filing the affidavit required by subsection (1) of this section.

(b) No candidate listed in paragraph (a) of this subsection shall be required to file another disclosure statement if the candidate had already filed such a statement less than ninety days prior to filing the affidavit required by subsection (1) of this section.

(c) A candidate must electronically file the disclosure statement required in subsection (2)(a) of this section, and the secretary of state must make all disclosure statements available to the public on its website. The secretary shall redact a candidate's address and other personal information before making a disclosure statement available on the secretary's website. The secretary may also modify the disclosure statement form to eliminate the inclusion of certain personal information.

(d) The form approved by the secretary of state must include an affirmation for the candidate to certify that the information provided in the disclosure statement is true, complete, and correct to the best of the candidate's knowledge and belief.

(2.5) A candidate seeking reelection does not have to file another disclosure statement required by subsection (2)(a) of this section if the incumbent filed the annual report required by section 24-6-202 (2) within thirty days of the date on which the incumbent became a candidate for reelection.

(3) If any person fails to file the affidavit or an accurate and complete disclosure statement required by subsection (2) of this section, the designated election official certifying the ballot in accordance with section 1-5-203 (3)(a) shall send a notice to the person by email and mail. The notice must state that the person will be disqualified as a candidate if the person fails to file the appropriate document within ten business days after the notice has been sent. If the person fails to file the appropriate document within that time frame, the designated election official shall disqualify the candidate.

(3.5) In addition to any other process provided in law or rule, any person may file a complaint with the secretary of state about a candidate not complying with the requirements of this section.

(4) Any disclosure statement required by subsection (2) of this section shall be amended no more than thirty days after any termination, acquisition, or substantial change of interests as to which disclosure is required.

(5) If a person is defeated as a candidate or withdraws from the candidacy, that person shall not be required to comply with the provisions of this section after the withdrawal or defeat.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 99:** (1) amended, p. 1392, § 16, effective June 4. **L. 2002:** (1) amended, p. 1641, § 35, effective June 7. **L. 2010:** (3) amended, (SB 10-041), ch. 151, p. 524, § 4, effective July 1. **L. 2014:** (1) amended, (HB 14-1164), ch. 2, p. 74, § 44, effective February 18. **L. 2018:** (3) amended, (HB 18-1047), ch. 155, p. 1095, § 6, effective April 23. **L. 2022:** (2.5) added, (HB 22-1156), ch. 108, p. 496, § 2, effective August 10. **L. 2023:** (2)(a) and (3) amended and (2)(c), (2)(d), and (3.5) added, (SB 23-276), ch. 399, p. 2396, § 51, effective June 6. **L. 2024:** (2.5), (3.5), and (4) amended, (SB 24-210), ch. 468, p. 3262, § 50, effective June 6. **L. 2026:** (2)(c) amended, (HB 26-1422), ch. 331, p. 1932, § 9, effective June 2.

Editor's note: This section is similar to former § 1-45-105 as it existed prior to 1996.

Cross references: For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

1-45-111. Duties of the secretary of state - enforcement. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** (1)(a.5) added and (1)(b) and (2) amended, p. 126, § 8, effective March 15; (2)(d) added, p. 1725, § 3, effective June 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

Editor's note: (1) This section was similar to former §§ 1-45-113 and 1-45-114 as they existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of

this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3597.

1-45-111.5. Duties of the secretary of state - enforcement - sanctions - definitions.

(1) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of this article.

(1.5) (a) Any person who believes that a violation of article XXVIII of the state constitution, the secretary of state's rules concerning campaign and political finance, or this article 45 has occurred may file a written complaint with the secretary of state in accordance with section 1-45-111.7.

(b) Any person who commits a violation of either the secretary of state's rules concerning campaign and political finance or this article that is not specifically listed in article XXVIII of the state constitution shall be subject to any of the sanctions specified in section 10 of article XXVIII of the state constitution or in this section.

(c) In addition to any other penalty authorized by article XXVIII of the state constitution or this article 45, a hearing officer may impose a civil penalty of fifty dollars per day for each day that a report, statement, or other document required to be filed under this article 45 that is not specifically listed in article XXVIII of the state constitution is not filed by the close of business on the day due. Any person who fails to file three or more successive committee registration reports or reports concerning contributions, expenditures, or donations in accordance with the requirements of section 1-45-107.5 shall be subject to a civil penalty of up to five hundred dollars for each day that a report, statement, or other document required to be filed by an independent expenditure committee is not filed by the close of business on the day due. Any person who knowingly and intentionally fails to file three or more reports due under section 1-45-107.5 shall be subject to a civil penalty of up to one thousand dollars per day for each day that the report, statement, or other document is not filed by the close of business on the day due. Imposition of any penalty under this subsection (1.5)(c) shall be subject to all applicable requirements specified in section 10 of article XXVIII of the state constitution governing the imposition of penalties.

(c.5) In addition to and without prejudice to any other penalty authorized under this article 45, a hearing officer shall impose a civil penalty as follows:

(I) At least one hundred dollars for each violation that is a failure to include a disclosure statement in accordance with section 1-46-103 (2), if the violation does not involve any paid advertising or other spending to promote or attract attention to a communication prohibited by section 1-46-103 (1), or such other higher amount that, based on the degree of distribution and

public exposure to the unlawful communication, the hearing officer deems appropriate to deter future violations of section 1-46-103; and

(II) At least ten percent of the amount paid or spent to advertise, promote, or attract attention to a communication prohibited by section 1-46-103 (1) that does not include a disclosure statement in accordance with section 1-46-103 (2), or such other higher amount that, based on the degree of distribution and public exposure to the unlawful communication, the hearing officer deems appropriate to deter future violations of section 1-46-103.

(d) In connection with a complaint brought to enforce any requirement of article XXVIII of the state constitution or this article 45, a hearing officer may order disclosure of the source and amount of any undisclosed donations or expenditures.

(e) In connection with any action brought to enforce any provision of article XXVIII of the state constitution or this article 45, the membership lists of a membership organization, a labor organization or, in the case of a publicly held corporation, a list of the shareholders of the corporation, shall not be disclosed by means of discovery or by any other manner.

(f) Any person who is fined up to one thousand dollars per day for a knowing and intentional failure to file under paragraph (c) of this subsection (1.5) shall, if the person has shareholders or members, notify such shareholders or members of the penalty and the adjudicated violations on its publicly accessible website in a prominent manner for not less than one hundred eighty days after the final adjudication. A copy of this notice, with the website address used, shall be filed with the secretary of state and shall be a public record.

(g) The secretary of state has, as a matter of right, the right to intervene in any action pending before the office of administrative courts or the court of appeals that is brought to enforce the provisions of article XXVIII of the state constitution or this article.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article 45 is entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the hearing officer that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was commenced for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including abuses of discovery procedures available under the Colorado rules of civil procedure. Notwithstanding any other provision of this subsection (2), no attorney fees may be awarded under this subsection (2) unless the court or hearing officer, as applicable, has first considered and issued written findings regarding the provisions of section 13-17-102 (5) and (6). Either party in an action in which the hearing officer awarded attorney fees and costs may apply to a district court to convert an award of attorney fees and costs into a district court judgment. Promptly upon the conversion of the award of attorney fees and costs into a district court judgment, the clerk of the district court shall mail notice of the filing of the judgment to the

judgment debtor at the address given and shall make a note of the mailing in the docket. The notice must include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

(3) Upon a determination by the hearing officer that an issue committee failed to file a report required pursuant to section 1-45-108, the hearing officer shall direct the issue committee to file any such report within ten days containing all required disclosure of any previously unreported contributions or expenditures and may, in addition to any other penalty, impose a penalty not to exceed twenty dollars for each contribution received and expenditure made by the issue committee that was not timely reported.

(4) (a) Upon failure of a witness or party to comply with an administrative subpoena issued in relation to an alleged campaign finance violation pursuant to article XXVIII of the state constitution or this article, the party that requested the administrative subpoena or the issuing agency may petition the district court ex parte with a copy of the petition sent to the subpoenaed witness or party and the administrative law judge by regular mail, for an order directing the witness or party to comply with the administrative subpoena.

(b) If the petition required by paragraph (a) of this subsection (4) shows to the district court's satisfaction that the administrative subpoena was properly served pursuant to rule 4 of the Colorado rules of civil procedure, the district court shall order the subpoenaed witness or party to appear before the district court and show cause why the witness or party should not be ordered to comply with the administrative subpoena. A copy of the petition and the court order shall be served, pursuant to rule 5 of the Colorado rules of civil procedure, on the witness or party at least fifteen days before the date designated for the witness or party to appear before the district court.

(c) At a show cause hearing ordered by the district court pursuant to paragraph (b) of this subsection (4), the court shall review the administrative subpoena and any evidence presented by the parties to determine compliance with the Colorado rules of civil procedure. The subpoenaed witness or party shall bear the burden of showing good cause as to why he or she should not be ordered to comply with the administrative subpoena.

(d) If the court determines that the subpoenaed witness or party is required to comply with the administrative subpoena:

(I) The district court shall order compliance forthwith and may impose remedial and punitive fines, including attorneys' fees and costs, for the witness's or party's failure to comply with the administrative subpoena; and

(II) The hearing officer shall schedule a hearing on the complaint to occur on a day after the occurrence of the required deposition and such other discovery as may be warranted due to such deposition.

(e) If the subpoenaed witness or party fails to appear at the show cause hearing, the district court may issue a bench warrant for the arrest of the subpoenaed witness or party and may impose other sanctions pursuant to the Colorado rules of civil procedure.

(5) Repealed.

Source: L. 2003: Entire section added, p. 2160, § 6, effective June 3. **L. 2005:** (2) amended, p. 852, § 4, effective June 1. **L. 2008:** (1.5) added and (2) amended, p. 349, § 1, effective April 10. **L. 2010:** (1.5)(c), (1.5)(d), (1.5)(e), and (1.5)(f) added, (SB 10-203), ch. 269, p. 1236, § 6, effective May 25; (3) added, (HB 10-1370), ch. 270, p. 1242, § 7, effective January 1, 2011. **L. 2011:** (4) added, (HB 11-1117), ch. 35, p. 97, § 1, effective March 21. **L. 2016:** (5) added, (SB 16-106), ch. 290, p. 1175, § 1, effective August 10. **L. 2018:** (1.5)(a) and (2) amended and (1.5)(g) added, (HB 18-1047), ch. 155, p. 1095, § 7, effective April 23. **L. 2019:** (1.5)(a) to (1.5)(e), (2), (3), and (4)(d)(II) amended and (5) repealed, (SB 19-232), ch. 330, p. 3066, § 4, effective July 1. **L. 2024:** (1.5)(c.5) added, (HB 24-1147), ch. 250, p. 1654, § 1, effective July 1.

Editor's note: In Holland v. Williams, 457 F. Supp. 3d 979 (D. Colo. 2018), the United States District Court for the District of Colorado held that the enforcement provisions in article XXVIII, section 9(2)(a), of the state constitution and subsection (1.5)(a) of this section are facially unconstitutional under the first and fourteenth amendments to the United States Constitution.

Cross references: (1) For the legislative declaration in the 2010 act adding subsections (1.5)(c), (1.5)(d), (1.5)(e), and (1.5)(f), see section 1 of chapter 269, Session Laws of Colorado 2010.

(2) For the legislative declaration in the 2010 act adding subsection (3), see section 1 of chapter 270, Session Laws of Colorado 2010.

ANNOTATION

Subsection (1.5)(a) of this section and § 9(2)(a) of article XXVIII are facially unconstitutional under the first and fourteenth amendments to the federal constitution. These enforcement provisions regulate core political speech and are

content-based; therefore, they are subject to strict scrutiny. The provisions are not narrowly tailored to advance the state's interest in enforcing its campaign finance laws. Holland v. Williams, 457 F. Supp. 3d 979 (D. Colo. 2018).

Nor do the enforcement provisions satisfy the balancing test. The provisions diminish first amendment speech and are not reasonable because they allow any person to enforce them. Holland v. Williams, 457 F. Supp. 3d 979 (D. Colo. 2018).

District court did not abuse its discretion by entering preliminary injunction against secretary of state enjoining implementation of administrative rule defining "member" for purposes of constitutional provisions governing small donor committees. Proposed rule would force labor and other covered organizations to get written permission before using an individual's dues or contributions to fund political campaigns. Plaintiffs demonstrated reasonable probability of success on the merits in challenging secretary's authority to enact proposed rule. Secretary's "definition" of term "member" in proposed rule is much more than an effort to define term. It can be read effectively to add, modify, and conflict with constitutional provision by imposing new condition not found in text of article XXVIII. Secretary's stated purpose in enacting proposed rule not furthered by "definition" contained in proposed rule. Proposed rule does not further secretary's stated goal of achieving transparency of political contributions. Sanger v. Dennis, 148 P.3d 404 (Colo. App. 2006).

Plaintiffs demonstrated reasonable probability of success on the merits in alleging that administrative rule promulgated by secretary of state violated their constitutional rights to freedom of association as applied to them. Secretary's immediate enforcement of administrative rule forcing labor and other covered organizations to get written permission before using an individual's dues or contributions to fund political campaigns would have effectively prevented plaintiffs from exercising their first amendment rights in general election. Administrative rule was not narrowly tailored. Rationale justifying administrative rule was based upon speculation there would be dissenters, thereby impermissibly penalizing constitutional rights of the many for the speculative rights of the few. Accordingly, district court did not abuse its discretion by entering preliminary injunction against implementation of administrative rule. Sanger v. Dennis, 148 P.3d 404 (Colo. App. 2006).

Adoption of Rule 9.3 of the Colorado secretary of state's rules concerning campaign and political finance requiring the name of the candidate unambiguously referred to in the electioneering communication to be included in the electioneering report, was within the rulemaking authority of the secretary of state under § 9(1)(b) of article XXVIII of the state constitution and subsection (1) of this section. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

ALJ had jurisdiction to impose penalty for violation of Rule 9.3 and did not err by imposing a $1,000 penalty on political committee. Section (2)(a) of article XXVIII of the state constitution grants an ALJ authority to conduct hearings on alleged violations of the article and the "Fair Campaign Practices Act" and to impose penalties if a violation has occurred. Rule 9.3 is necessary to implement former § 1-45-109 (5), and, under § 10(2)(a) of article XXVIII of the state constitution, sanctions can be imposed for violations of § 1-45-109. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

ALJ did not err in determining that membership contribution claim was groundless and in awarding attorney fees against litigant. ALJ did not misinterpret subsection (2) by rejecting litigant's defense based on voluntary dismissal of its membership contributions claim under § 13-17-102 (5). Although § 1-45-111.5 (2) contains the same operative language and definitions as § 13-17-102 (4), at the time of the action, the FCPA did not incorporate § 13-17-102 (5) and contained no exception for dismissal of a groundless claim prior to hearing. Moreover, although § 13-17-102 applies to any civil action commenced or appealed in any court of record, "court of record" does not include administrative courts. Finally, the record showed that the ALJ considered litigant's arguments about the efforts it made after the filing of the action to reduce or dismiss claims it found to be invalid. Colo. Citizens for Ethics in Gov't v. Comm. for the Am. Dream, 187 P.3d 1207 (Colo. App. 2008).

Given that identical terms "substantially frivolous, substantially groundless, or substantially vexatious" are found in this section and in § 13-17-102, case law construing that section may be examined for guidance in construing terms used in this section. Colo. Ethics Watch v. Senate Major. Fund, 275 P.3d 674 (Colo. App. 2010), aff'd on other grounds, 2012 CO 12, 269 P.3d 1248.

A claim is frivolous if its proponents can present no rational argument based on the evidence or the law to support it. A claim is vexatious if it is brought or maintained in bad faith to annoy or harass another. Colo. Ethics Watch v. Senate Major. Fund, 275 P.3d 674 (Colo. App. 2010), aff'd on other grounds, 2012 CO 12, 269 P.3d 1248.

Subsection (2) of this section and § 9(2)(a) of article XXVIII of the state constitution do not permit a respondent who has been awarded attorney fees in an action under the Fair Campaign Practices Act (FCPA) to enforce the action in the district court. The plain language of subsection (2) and subsection 9(2)(a) of article XXVIII read together creates a nonreciprocal right to enforce an ALJ's award ordered in a campaign finance violation action and leaves a respondent without a remedy under either article XXVIII or the FCPA to enforce that award. While this may create an unintended result, the legislature or the people must determine the remedy and the court is not a board of editors with power to rewrite statutes or the constitution to improve them. Because respondent was not authorized by subsection 9(2)(a) of article XXVIII to seek

enforcement of the ALJ's attorney fees order in the district court, the district court did not err when it dismissed her petition for lack of subject matter jurisdiction. McGihon v. Cave, 2016 COA 78, 410 P.3d 647.

Subsection (2) does not apply to costs on appeal. Camp. Int. Watchdog v. Colo. Better Future, 2016 COA 51, rev'd on other grounds, 2018 CO 6, 409 P.3d 350; Camp. Int. Watchdog v. Colo. Better Future, 2016 COA 56M, 378 P.3d 852.

1-45-111.7. Campaign finance complaints - initial review - curing violations - investigation and enforcement - hearings - advisory opinions - document review - collection of debts resulting from campaign finance penalties - definitions.

(1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Article XXVIII" means article XXVIII of the state constitution.

(b) "Deputy secretary" means the deputy secretary of state appointed pursuant to section 24-21-105 or the deputy secretary's designee.

(c) "Division" means the division within the office of the secretary responsible for administering the state's laws governing campaign and political finance.

(d) "Hearing officer" means a person authorized to conduct a hearing under section 24-4-105 (3).

(e) "Rules" means the rules of the secretary concerning campaign and political finance.

(f) "Secretary" means the secretary of state or the secretary's designate.

(2) **Filing complaints.**

(a) Any person who believes that a violation has occurred of article XXVIII, this article 45, article 46 of this title 1, or the rules may file a complaint with the secretary.

(b) A complaint must be filed no later than one hundred eighty days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation.

(c) Any complaint must be filed in writing and signed by the complainant on the form provided by the secretary. The complaint must identify one or more respondents and include the information required to be provided on the form.

(d) Upon receipt of a complaint, the division shall notify the respondent of the complaint by email or by regular mail if email is unavailable.

(e) The division shall forward any complaint made against a candidate for secretary or the secretary to the department of law for the review of the complaint by the attorney general to act on behalf of the division in accordance with applicable requirements of this section.

(3) **Initial review.**

(a) The division shall conduct an initial review of a complaint filed under subsection (2) of this section to determine whether the complaint:

(I) Was timely filed under subsection (2)(b) of this section;

(II) Specifically identifies one or more violations of article XXVIII, this article 45, or the rules; and

(III) Alleges sufficient facts to support a factual and legal basis for the violations of law alleged in the complaint.

(b) Within ten business days of receiving a complaint, the division shall take one or more of the actions specified in this subsection (3)(b):

(I) If the division makes an initial determination that the complaint was not timely filed, has not specifically identified one or more violations of article XXVIII, this article 45, or the rules, or does not assert facts sufficient to support a factual or legal basis for an alleged violation, the division shall prepare and file with the deputy secretary a motion to dismiss the complaint. The deputy secretary shall make a determination on the motion to dismiss within five business days, which must be provided to the complainant and the respondent by email or by regular mail if email is unavailable. If the deputy secretary denies the motion, the division shall determine whether to conduct a review under subsection (3)(b)(II) or (3)(b)(III) of this section. The final determination by the deputy secretary on the motion to dismiss constitutes final agency action and is subject to judicial review by a state district court under section 24-4-106.

(II) If the division makes an initial determination that the complaint alleges one or more curable violations as addressed in subsection (4) of this section, the division shall notify the respondent and provide the respondent an opportunity to cure the violations.

(III) If the division makes an initial determination that the complaint has specifically identified one or more violations of article XXVIII, this article 45, or the rules, and has alleged facts sufficient to support a factual or legal basis for each alleged violation, and that either a factual finding or a legal interpretation is required, the division shall conduct additional review under subsection (5) of this section within thirty days to determine whether to file a complaint with a hearing officer.

(4) **Curing violations.**

(a) Upon the division's initial determination that a complaint alleges a failure to file or otherwise disclose required information, or alleges another curable violation, the division shall

notify the respondent by email or by regular mail if email is unavailable of the curable deficiencies alleged in the complaint.

(b) The respondent has ten business days from the date the notice is emailed or mailed to file an amendment to any relevant report that cures any deficiencies specified in the notice.

(c) The respondent shall provide the division with notice of the respondent's intent to cure on the form provided by the secretary and include a copy of any amendments to any report containing one or more deficiencies.

(d) Upon receipt of the respondent's notice of an intent to cure, the division may ask the respondent to provide additional information and may grant the respondent an extension of time to file an amended notice of intent to cure in order to respond to any such request.

(e) (I) After the period for cure has expired, the division shall determine whether the respondent has cured any violation alleged in the complaint and, if so, whether the respondent has substantially complied with its legal obligations under article XXVIII, this article 45, and the rules in accordance with subsection (4)(f) of this section.

(II) If the division determines that the respondent has substantially complied with its legal obligations, the division shall prepare and file with the deputy secretary a motion to dismiss the complaint. The motion must be accompanied by a draft order specifying the manner in which the respondent has satisfied the factors specified in subsection (4)(f) of this section. The deputy secretary shall make a determination on the motion to dismiss, which must be provided to the complainant and the respondent by email or by regular mail if email is unavailable. If the deputy secretary denies the motion, the division shall determine whether to conduct a review under subsection (3)(b)(II) or (3)(b)(III) of this section. The determination by the deputy secretary under this subsection (4)(e)(II) is final agency action and is subject to judicial review by a state district court under section 24-4-106.

(III) If the division determines that the respondent has failed to substantially comply under subsection (4)(f) of this section, the division shall conduct an additional review under subsection (5)(a) of this section to determine whether to file the complaint with a hearing officer.

(f) In determining whether an entity substantially complied with its legal obligations under article XXVIII, this article 45, or the rules the division must consider:

(I) The extent of the respondent's noncompliance;

(II) The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and

(III) Whether the noncompliance may properly be viewed as an intentional attempt to mislead the electorate or election officials.

(g) If the division determines that the respondent failed to cure any alleged deficiency, the division shall conduct an additional review under subsection (5)(a) of this section to determine whether to file a complaint with a hearing officer.

(5) **Investigations and enforcement.**

(a) (I) The division shall investigate each complaint that was not dismissed during either its initial review or by means of the cure proceedings in accordance with subsection (3) or (4) of this section to determine whether to file a complaint with a hearing officer. The division may also initiate an investigation under subsection (7)(b) of this section.

(II) For the purpose of an investigation relating to a complaint filed under subsection (2)(a) of this section or an investigation initiated by the division under subsection (7)(b) of this section, the division may request the production of any documents or other tangible things that are believed to be relevant or material to the investigation, and shall establish the relevance and materiality in writing. Notwithstanding any other provision of law, documents or other tangible things provided to the division during the course of an investigation under this subsection (5) are not subject to inspection or copying under the "Colorado Open Records Act", part 2 of article 72 of title 24. Notwithstanding any other provision of law, documents or other tangible things provided to the division during the course of an investigation under this subsection (5) and other materials prepared or assembled to assist the secretary's designee in reaching a decision are work product as defined in section 24-72-202 (6.5)(a) and are not public records subject to inspection under part 2 of article 72 of title 24.

(III) If the division receives a person's membership list or donor list during the course of the division's initial review under subsection (3) of this section, investigation under this subsection (5), or the cure process, including the determination of substantial compliance, as described in subsection (4) of this section, the division shall not disclose such list or the identity of any member or donor to any person. Notwithstanding any other provision of law, any such membership or donor list is not a public record subject to inspection, copying, or any other form of reproduction under part 2 of article 72 of title 24.

(IV) The division shall determine whether it will file a complaint with a hearing officer within thirty days after initiating an investigation. If the division makes a determination that a complaint should not be filed with a hearing officer because there is not sufficient information to support the allegations contained in the complaint or for any other reason, it shall prepare and file with the deputy secretary a motion to dismiss the complaint. The deputy secretary shall make a determination on the motion to dismiss within thirty-five days of the initial determination of the division under this subsection (5)(a)(IV), or the initiation of an investigation by the division under subsection (7)(b) of this section, which must be provided to the complainant and the respondent by email or by regular mail if email is unavailable. If the deputy secretary denies the motion, the division has fourteen business days to file a complaint with a hearing officer under this subsection (5).

(V) If the division files a complaint with a hearing officer under this subsection (5), it is responsible for conducting such discovery as may be necessary for effectively prosecuting the complaint, supplementing or amending the complaint with such additional or alternative claims or allegations as may be supported by the division's investigation, amending the complaint to strike allegations or claims that are not supported by the division's investigation, and in all other respects prosecuting the complaint.

(b) A complainant or any other nonrespondent is not a party to the division's initial review, cure proceedings, investigation, or any proceedings before a hearing officer as described in this section. A complainant may seek permission from the hearing officer to file a brief as an amicus curiae. A person's status as a complainant is not sufficient to establish that he or she may be affected or aggrieved by the secretary's action on the complaint. To the extent this subsection (5)(b) conflicts in any respect with section 24-4-105 or 24-4-106, this subsection (5)(b) controls. A complainant may also seek judicial review by a state district court of a final agency action under section 24-4-106.

(6) **Conduct of hearings.**

(a) Any hearing conducted by a hearing officer under this section must be in accordance with section 24-4-105; except that a hearing officer shall schedule a hearing within thirty days of the filing of the complaint, which hearing may be continued upon the motion of any party for up to thirty days or a longer extension of time upon a showing of good cause.

(b) Any initial determination made by a hearing officer must be made in accordance with section 24-4-105 and is subject to review by the deputy secretary. The final agency decision is subject to review under section 24-4-106.

(7) **Document review.**

(a) In addition to any other powers and duties it possesses under law, the division may also review any document the secretary receives for filing under article XXVIII, this article 45, or the rules.

(b) In connection with the review of other available information regarding a potential violation under this subsection (7):

(I) If the division determines that a person violated or potentially violated any of the provisions of article XXVIII, this article 45, or the rules, the division shall either notify the person of his or her opportunity to cure the identified deficiencies in accordance with subsection (4) of this section or notify the person that the division is initiating an investigation under subsection (5) of this section. The division shall send the notification by email or by regular mail if email is unavailable.

(II) If the division initiates an investigation or files a complaint with a hearing officer in connection with its review, the procedures described in subsections (5) and (6) of this section apply.

(c) As used in this subsection (7), "review" means the factual inspection of any document required to be filed with the secretary for campaign finance registration, reporting, or disclosure in order to assess the document's accuracy and completeness and the timeliness of the document's filing.

(8) **Advisory opinions.**

(a) Any person seeking guidance on the application of article XXVIII, this article 45, or the rules may request that the secretary issue an advisory opinion regarding that person's specific activity.

(b) The secretary shall determine, at the secretary's discretion, whether to issue an advisory opinion under subsection (8)(a) of this section. In making this determination, the secretary shall consider factors including whether:

(I) The advisory opinion will terminate a controversy or remove one or more uncertainties as to the application of the law to the requester's situation;

(II) The request involves a subject, question, or issue that concerns a formal or informal matter or investigation currently pending before the secretary or a court; and

(III) The request seeks a ruling on a moot or hypothetical question.

(c) A person may rely on an advisory opinion issued by the secretary as an affirmative defense to any complaint filed under this section.

(d) A refusal by the secretary to issue an advisory opinion does not constitute a final agency action that is subject to appeal.

(9) **Debt collection.**

(a) The secretary may pursue collection of any outstanding debt resulting from a campaign finance penalty that the secretary deems collectible.

(b) Repealed.

(10) **Municipal complaints.**

(a) A complaint alleging that a violation of article XXVIII of the state constitution, this article 45, or the rules has occurred in connection with a municipal campaign finance matter must be filed with the clerk of the applicable municipality. Unless otherwise provided by local law, a complainant must file the complaint in writing, sign the complaint, and identify one or

more respondents. The complaint shall be filed and processed in accordance with local law unless referred to the secretary as specified in subsection (10)(c)(I) or (10)(c)(II) of this section.

(b) The clerk shall conduct an initial review of a campaign finance complaint within ten business days of receiving the complaint or within the time specified in local law to determine whether the complaint satisfies the requirements of subsection (10)(a) of this section or the requirements of local law, as applicable. If, after initially reviewing a complaint pursuant to this subsection (10)(b), the clerk determines that a complaint does not satisfy the requirements of subsection (10)(a) of this section, the clerk shall dismiss the complaint.

(c) (I) If, after initially reviewing a campaign finance complaint pursuant to subsection (10)(b) of this section, the clerk determines that the complaint satisfies the requirements of subsection (10)(a) of this section and local law, as applicable, but presents an actual or potential conflict for the clerk or the clerk's staff, the clerk shall refer the complaint to the secretary, in a form and manner determined by the secretary, within fourteen business days of receiving the complaint if the municipality has adopted an ordinance that authorizes the municipality to refer a campaign finance complaint to the secretary based on an actual or potential conflict of the clerk or the clerk's staff, as determined in writing by the clerk.

(II) If the clerk of a statutory municipality that does not have a campaign finance complaint and hearing process determines, after initially reviewing a campaign finance complaint pursuant to subsection (10)(b) of this section, that a complaint satisfies the requirements of subsection (10)(a) of this section, the clerk shall refer the complaint to the secretary, in a form and manner determined by the secretary, within fourteen business days of receiving the complaint if the municipality has adopted an ordinance that authorizes the municipality to refer a campaign finance complaint to the secretary because the municipality does not have a campaign finance complaint and hearing process.

(d) To refer a campaign finance complaint to the secretary pursuant to this subsection (10), a municipality must have an ordinance that authorizes the municipality to refer such a complaint to the secretary and must provide a copy of the ordinance to the secretary. A municipality is not authorized to refer a campaign finance complaint to the secretary pursuant to this subsection (10) for an election that is fewer than one hundred eighty days after the ordinance is provided to the secretary. A municipal ordinance that authorizes the municipality to refer a campaign finance complaint to the secretary must:

(I) Authorize the secretary to use the provisions of subsections (3) to (7) of this section to process, investigate, and resolve the campaign finance complaint; except that the determination of whether the complaint was timely filed pursuant to subsection (3)(a)(I) of this section shall consider the time for filing a complaint under local law;

(II) Permit the filing of a campaign finance complaint no more than one hundred eighty days after the date on which the complainant either knew or should have known, by the exercise of reasonable diligence, of the alleged violation;

(III) Require the filing of a campaign finance complaint to be in writing and signed by the complainant on a form provided by the secretary, including identification of one or more respondents and including the information required to be provided on the form;

(IV) Direct the municipality to cooperate with the secretary in the processing and investigation of the campaign finance complaint; and

(V) Disclaim any interest of the municipality in fines collected in connection with a referred campaign finance complaint.

(e) Upon dismissing a complaint or referring a complaint to the secretary pursuant to this section, the clerk shall notify the complainant of the clerk's action by email or by regular mail if email is unavailable.

(f) A municipality must cooperate with the secretary in the review, investigation, and determination of any campaign finance complaint referred to the secretary pursuant to this section.

(g) If the secretary receives a campaign finance complaint referred by a clerk pursuant to subsection (10)(c)(I) or (10)(c)(II) of this section, the secretary shall deem the complaint filed pursuant to subsection (2) of this section on the date of receipt from the clerk, and the secretary shall ensure that the complaint is addressed in accordance with the requirements of this section. The determination that a conflict exists is not reviewable by the secretary.

(h) The secretary shall apply the substantive provisions of a home rule municipality's local law in processing, investigating, and resolving a campaign finance complaint referred to the secretary pursuant to this section.

(i) All fines collected in connection with a referred campaign finance complaint are payable to the secretary.

(j) The adoption of a local law authorizing the referral of a campaign finance complaint to the secretary pursuant to this section is not a waiver of the application of any provisions of article XX or XXVIII of the state constitution or section 1-45-116. Nothing in this subsection (10) requires a municipality to repeal an ordinance or resolution establishing a campaign finance complaint and hearing process.

(k) As used in this subsection (10):

(I) "Clerk" means the clerk of a municipality or the person or entity designated to review campaign finance complaints under a local law.

(II) "Conflict" means the actual or reasonably perceived inability to process a campaign finance complaint or impose a remedy in a fair and impartial manner, including an actual or reasonably perceived bias or other factors that may impact the independence of the decision-maker regarding the complainant or a candidate.

(III) "Local law" means a municipal charter, ordinance, or resolution that address the matters covered by article XXVIII of the state constitution and this article 45.

Source: L. 2019: Entire section added, (SB 19-232), ch. 330, p. 3059, § 1, effective July 1. **L. 2021:** (9)(a) amended, (SB 21-055), ch. 12, p. 75, § 2, effective March 21. **L. 2024:** (2)(a) amended, (HB 24-1147), ch. 250, p. 1655, § 2, effective July 1; (9)(b) repealed and (10) added, (HB 24-1283), ch. 338, p. 2286, § 1, effective August 7.

Editor's note: Subsections (10)(k)(I) and (10)(k)(II) were numbered as (10)(k)(II) and (10)(k)(I), respectively, in HB 24-1283 but have been renumbered on revision for ease of location.

ANNOTATION

Law reviews. For article, "Conflicting Procedures for Prosecuting Campaign Finance Cases", see 54 Colo. Law. 28 (Mar. 2025).

Section is not facially unconstitutional based on conflict with § 9(2)(a) of article XXVIII of the state constitution. Because the secretary of state has been barred from enforcing campaign finance laws through the enforcement mechanism outlined in § 9(2)(a) due to an unchallenged federal court decision in Holland v. Williams, 457 F. Supp. 3d 979 (D. Colo. 2018), the enforcement mechanism in this section is not in conflict with § 9(2)(a). Campaign Integrity Watchdog LLC v. Griswold, 2025 COA 18, 568 P.3d 48.

Section is not facially unconstitutional as violating the separation of powers doctrine. When the final agency decision is subject to judicial review, agency adjudicative procedures do not violate separation of powers principles. Campaign Integrity Watchdog LLC v. Griswold, 2025 COA 18, 568 P.3d 48.

Section is not facially unconstitutional as violating due process. Campaign Integrity Watchdog LLC v. Griswold, 2025 COA 18, 568 P.3d 48.

1-45-112. Duties of municipal clerk.

(1) The municipal clerk shall:

(a) Develop a filing and indexing system for their offices consistent with the purposes of this article;

(b) Keep a copy of any report or statement required to be filed by this article for a period of ten years from the date of filing. In the case of candidates who were elected, those candidate's reports and filings shall be kept for six years after the candidate leaves office.

(c) Make reports and statements filed under this article available to the public for inspection and copying no later than the end of the next business day after the date of filing. No information copied from such reports and statements shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

(c.5) Make publicly available without charge on a website, or for in-person inspection, any reports, disclosures, or statements that are filed pursuant to this article 45 and are subject to the retention requirements set forth in subsection (1)(b) of this section. For an individual who submits an open records request involving such reports, disclosures, or statements, if printouts or photographs relating to such an open records request are requested, the municipal clerk may charge appropriate fees.

(d) Upon request by the secretary of state, transmit records and statements filed under this article to the secretary of state;

(e) Notify any person under their jurisdiction who has failed to fully comply with the provisions of this article and notify any person if a complaint has been filed with the secretary of state alleging a violation of this article.

(f) Repealed.

(2) The secretary of state shall reimburse the municipal clerk of each municipality at the rate of two dollars per candidate per election to help defray the cost of implementing this article.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2008:** (1)(f) repealed, p. 350, § 2, effective April 10. **L. 2009:** IP(1) and (2) amended, (HB 09-1357), ch. 361, p. 1874, § 3, effective July 1. **L. 2023:** (1)(b) amended and (1)(c.5) added, (HB 23-1245), ch. 417, p. 2467, § 4, effective January 1, 2024.

Editor's note: This section is similar to former § 1-45-115 as it existed prior to 1996.

1-45-112.5. Immunity from liability.

(1) Any individual volunteering his or her time on behalf of a candidate or candidate committee shall be immune from any liability for a fine or penalty imposed pursuant to section 10 (1) of article XXVIII of the state constitution in any proceeding that is based on an act or omission of such volunteer if:

(a) The volunteer was acting in good faith and within the scope of such volunteer's official functions and duties for the candidate or candidate committee; and

(b) The violation was not caused by willful and intentional misconduct by such volunteer.

(2) Subsection (1) of this section shall be administered in a manner that is consistent with section 1 of article XXVIII of the state constitution and with the legislative declaration set forth in section 1-45-102.

(3) Any media outlet shall be immune from civil liability in any court where the media outlet:

(a) Withdraws advertising time reserved by an independent expenditure committee that fails to register in accordance with the requirements of section 1-45-107.5 (3)(a); or

(b) Elects to void an advertising contract and the advertisement:

(I) Is paid for by an independent expenditure committee that fails to register under section 1-45-107.5 (3)(a);

(II) Is paid for by an independent expenditure committee that is registered under section 1-45-107.5 (3)(a) but the committee fails to file a disclosure report under section 1-45-108 (2) through the date of the most recent required report; or

(III) Fails to satisfy the requirements of section 1-45-107.5 (5)(a).

(4) An affected media outlet may void a contract that implicates paragraph (b) of subsection (3) of this section in the sole discretion of the media outlet.

Source: L. 2003: Entire section added, p. 2160, § 6, effective June 3. **L. 2010:** (3) and (4) added, (SB 10-203), ch. 269, p. 1237, § 7, effective May 25.

Cross references: For the legislative declaration in the 2010 act adding subsections (3) and (4), see section 1 of chapter 269, Session Laws of Colorado 2010.

1-45-113. Sanctions. (Repealed)

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 98:** (6) added, p. 633, § 3, effective May 6; (6) added, p. 952, § 4, effective May 27. **L. 2000:** (1), (2), (3), and (4) amended, p. 127, § 9, effective March 15. **L. 2001:** (4) amended, p. 1110, § 1, effective September 1. **Initiated 2002:** Entire section repealed, effective upon proclamation of the Governor (see editor's note, (2)).

Editor's note: (1) This section was similar to former § 1-45-121 as it existed prior to 1996.

(2) (a) Subsection (4) of section 1 of article V of the state constitution provides that initiated and referred measures shall take effect from and after the official declaration of the vote thereon by the proclamation of the Governor. The measure enacting article XXVIII of the state constitution takes effect upon proclamation of the vote by the Governor. The Governor's proclamation was issued on December 20, 2002. However, section 13 of the measure enacting article XXVIII of the state constitution provides that the effective date of article XXVIII is December 6, 2002.

(b) This section was repealed by an initiated measure that was adopted by the people in the general election held November 5, 2002. Section 12 of article XXVIII provides for the repeal of this section. For the text of the initiative and the vote count, see Session Laws of Colorado 2003, p. 3609.

1-45-114. Expenditures - political advertising - rates and charges.

(1) No candidate shall pay to any radio or television station, newspaper, periodical, or other supplier of materials or services a higher charge than that normally required for local commercial customers for comparable use of space, materials, or services. Any such rate shall not be rebated, directly or indirectly.

(2) Any radio or television station, newspaper, or periodical that charges a candidate committee a lower rate for use of space, materials, or services than the rate such station, newspaper, periodical, or supplier charges another candidate committee for the same public office for comparable use of space, materials, or services shall report the difference in such rate as a contribution to the candidate committee that is charged such lower rate pursuant to section 1-45-108.

(3) Nothing in this article shall be construed to prevent an adjustment in rates related to frequency, volume, production costs, and agency fees if such adjustments are offered consistently to other advertisers.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2000:** Entire section amended, p. 128, § 10, effective March 15. **L. 2003:** (2) amended, p. 2160, § 5, effective June 3.

Editor's note: This section is similar to former § 1-45-118 as it existed prior to 1996.

1-45-115. Encouraging withdrawal from campaign prohibited.

No person shall offer or give any candidate or candidate committee any money or any other thing of value for the purpose of encouraging the withdrawal of the candidate's candidacy, nor shall any candidate offer to withdraw a candidacy in return for money or any other thing of value.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

Editor's note: This section is similar to former § 1-45-119 as it existed prior to 1996.

1-45-116. Home rule counties and municipalities.

Any home rule county or municipality may adopt ordinances or charter provisions with respect to its local elections that are more stringent than any of the provisions contained in this act. Any home rule county or municipality which adopts such ordinances or charter provisions shall not be entitled to reimbursement pursuant to subsection 1-45-112 (2). The requirements of article XXVIII of the state constitution and of this article shall not apply to home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by article XXVIII and this article.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2003:** Entire section amended, p. 2161, § 7, effective June 3.

Editor's note: This section is similar to former § 1-45-120 (1) as it existed prior to 1996.

ANNOTATION

Because Colorado Springs, as a home rule municipality, enacted a campaign practices ordinance, this section expressly provides that neither the campaign finance provisions of the state constitution nor this article applies to a complaint submitted to the secretary of state (secretary) alleging that certain candidates for city council had violated the ordinance. Accordingly, an administrative law judge to whom the complaint had been forwarded by the secretary lacks subject matter jurisdiction over campaign practices arising out of the city's elections and properly dismissed the complaint. The attempted referral of the complaint to the secretary conflicts with the clear intent of the general assembly to exclude home rule municipality elections from state disclosure requirements when the home rule municipality has adopted its own ordinances regulating campaign practices. In re City of Colo. Springs, 2012 COA 55, 277 P.3d 937.

1-45-117. State and political subdivisions - limitations on contributions.

(1) (a) (I) No agency, department, board, division, bureau, commission, or council of the state or any political subdivision of the state shall make any contribution in campaigns involving the nomination, retention, or election of any person to any public office, nor shall any such entity make any donation to any other person for the purpose of making an independent expenditure, nor shall any such entity expend any money from any source, or make any contributions, to urge electors to vote in favor of or against any:

(A) Statewide ballot issue that has been submitted for the purpose of having a title designated and fixed pursuant to section 1-40-106 (1) or that has had a title designated and fixed pursuant to that section;

(B) Local ballot issue that has been submitted for the purpose of having a title fixed pursuant to section 31-11-111 or that has had a title fixed pursuant to that section;

(C) Referred measure, as defined in section 1-1-104 (34.5), passed by the general assembly or the governing body of any political subdivision of the state with authorization to refer matters to voters;

(D) Recall measure for the recall of any officer that has been submitted for approval for circulation on an approved petition form.

(II) However, a member or employee of any such agency, department, board, division, bureau, commission, or council may respond to questions about any such issue described in subparagraph (I) of this paragraph (a) if the member, employee, or public entity has not solicited

the question. A member or employee of any such agency, department, board, division, bureau, commission, or council who has policy-making responsibilities may expend not more than fifty dollars of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

(b) (I) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state, or any political subdivision thereof from expending public moneys or making contributions to dispense a factual summary, which shall include arguments both for and against the proposal, on any issue of official concern before the electorate in the jurisdiction. Such summary shall not contain a conclusion or opinion in favor of or against any particular issue. As used herein, an issue of official concern shall be limited to issues that will appear on an election ballot in the jurisdiction.

(II) Nothing in this subsection (1) shall be construed to prevent an elected official from expressing a personal opinion on any issue.

(III) Nothing in this subsection (1) shall be construed as prohibiting an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from:

(A) Passing a resolution or taking a position of advocacy on any issue described in subparagraph (I) of paragraph (a) of this subsection (1); or

(B) Reporting the passage of or distributing such resolution through established, customary means, other than paid advertising, by which information about other proceedings of such agency, department, board, division, bureau, or council of the state or any political subdivision thereof is regularly provided to the public.

(C) Nothing in this subsection (1) shall be construed as prohibiting a member or an employee of an agency, department, board, division, bureau, commission, or council of the state or any political subdivision thereof from expending personal funds, making contributions, or using personal time to urge electors to vote in favor of or against any issue described in subparagraph (I) of paragraph (a) of this subsection (1).

(2) The provisions of subsection (1) of this section shall not apply to:

(a) An official residence furnished or paid for by the state or a political subdivision;

(b) Security officers who are required to accompany a candidate or the candidate's family;

(c) Publicly owned motor vehicles provided for the use of the chief executive of the state or a political subdivision;

(d) Publicly owned aircraft provided for the use of the chief executive of the state or of a political subdivision or the executive's family for security purposes; except that, if such use is, in

whole or in part, for campaign purposes, the expenses relating to the campaign shall be reported and reimbursed pursuant to subsection (3) of this section.

(3) If any candidate who is also an incumbent inadvertently or unavoidably makes any expenditure which involves campaign expenses and official expenses, such expenditures shall be deemed a campaign expense only, unless the candidate, not more than ten working days after the such expenditure, files with the appropriate officer such information as the secretary of state may by rule require in order to differentiate between campaign expenses and official expenses. Such information shall be set forth on a form provided by the appropriate officer. In the event that public moneys have been expended for campaign expenses and for official expenses, the candidate shall reimburse the state or political subdivision for the amount of money spent on campaign expenses.

(4) (a) A violation of this section is subject to the provisions of section 10 (1) of article XXVIII of the state constitution, section 1-45-111.7, or any appropriate order or relief, including an order directing the person making a contribution or expenditure in violation of this section to reimburse the fund of the state or political subdivision, as applicable, from which such money was diverted for the amount of the contribution or expenditure, injunctive relief, or a restraining order to enjoin the continuance of the violation.

(b) If a board, commission, or council is found to have made a contribution or expenditure in violation of this section, an individual member of the board, commission, or council who voted in favor of or otherwise authorized the contribution or expenditure may be ordered to reimburse an amount pursuant to subsection (4)(a) of this section as long as the amount does not exceed the amount ordered to be reimbursed by any other individual of the board, commission, or council who voted in favor or otherwise authorized the contribution or expenditure.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997. **L. 2002:** (4) added, p. 280, § 1, effective August 7. **L. 2008:** (4) amended, p. 350, § 3, effective April 10. **L. 2010:** IP(1)(a)(I) amended, (SB 10-203), ch. 269, p. 1237, § 8, effective May 25. **L. 2015:** (4) amended, (HB 15-1074), ch. 89, p. 256, § 1, effective August 5. **L. 2018:** (4)(b) amended, (HB 18-1047), ch. 155, p. 1096, § 8, effective April 23. **L. 2023:** IP(1)(a)(I), (1)(a)(I)(C), (1)(a)(I)(D), and (4)(a) amended, (SB 23-276), ch. 399, p. 2397, § 52, effective June 6.

Editor's note: This section is similar to former § 1-45-116 as it existed prior to 1996.

Cross references: For the legislative declaration in the 2010 act amending the introductory portion to subsection (1)(a)(I), see section 1 of chapter 269, Session Laws of Colorado 2010.

ANNOTATION

Annotator's note. Since § 1-45-117 is similar to § 1-45-116 as it existed prior to the 1997 repeal and reenactment of this article, relevant cases construing that provision have been included in the annotations to this section.

The purpose of this section is to prohibit the state government and its officials from spending public funds to influence the outcome of campaigns for political office or ballot issues. Colo. Common Cause v. Coffman, 85 P.3d 551 (Colo. App. 2003), aff'd, 102 P.3d 999 (Colo. 2004).

This section must be strictly construed. It is an established principle that statutes regarding the use of public funds to influence the outcome of elections are strictly construed. Coffman v. Colo. Common Cause, 102 P.3d 999 (Colo. 2004).

A contribution under § 2(5)(a)(IV) of article XXVIII of the state constitution and as incorporated by reference into § 1-45-103 (6)(a) requires that: (1) a thing of value (2) be given to a candidate, either directly or indirectly, (3) in order to promote the candidate's nomination, retention, recall, or election. Keim v. Douglas County Sch. Dist., 2017 CO 81, 397 P.3d 377.

Moneys in fund administered by the Colorado compensation insurance authority that consisted primarily of premiums paid into the fund by employers constituted "public moneys" for purposes of this section. Denver Area Labor Fed'n v. Buckley, 924 P.2d 524 (Colo. 1996).

While the term "public moneys" is not defined, the all-inclusive language "from any source" indicates that the general assembly intended an expansive definition of the phrase. Thus, the term "public moneys" may not be construed to refer only to sums realized from the imposition of taxes. Denver Area Labor Fed'n v. Buckley, 924 P.2d 524 (Colo. 1996).

Although moneys collected by the political subdivision were not derived from state-imposed sales, use, property, or income taxes, those moneys may be spent by the political subdivision only for authorized public purposes. The general assembly has in essence declared that the expenditure of moneys in the fund for purposes prohibited by this section are not authorized expenditures for public purposes. Denver Area Labor Fed'n v. Buckley, 924 P.2d 524 (Colo. 1996).

This section prohibits the use of "public moneys from any source," not the use of "public funds". The general assembly thus selected a phrase not previously construed in seeking to limit the expenditure of funds by various governmental entities for certain purposes. Denver Area Labor Fed'n v. Buckley, 924 P.2d 524 (Colo. 1996).

This section tends to promote public confidence in government by prohibiting the use of moneys authorized for expenditure by political subdivisions for specified public purposes to advance the personal viewpoint of one group over another. A political subdivision's use of

moneys that were authorized for expenditure for the benefit of an insured to oppose the passage of an amendment proposed by an insured is the type of conduct the general assembly intended to prohibit by the enactment of this section. Denver Area Labor Fed'n v. Buckley, 924 P.2d 524 (Colo. 1996).

Subsection (4), and not § 10(1) of article XXVIII of state constitution, provides basis for sanctions against special district that allegedly violated subsection (1)(b)(I) by urging voters to support ballot issue. Plaintiff's sole argument to ALJ was that special district violated subsection (1)(b)(I) by urging voters to support ballot issue. Plaintiff made no argument that expenditure violated a contribution or spending limit nor did plaintiff make any other argument concerning the amount district spent. Sherritt v. Rocky Mtn. Fire Dist., 205 P.3d 544 (Colo. App. 2009).

No abuse of discretion by administrative law judge (ALJ) in refusing to sanction special district at higher amount requested by plaintiff. Under subsection (4), ALJ had discretion to determine "any appropriate order or relief". In sanctioning district, ALJ cited district's attempt to comply with the law and the absence of prior violations. ALJ found that public funds would be used to satisfy the penalty and, therefore, a large fine would compound the problem. In exercising his or her discretion, ALJ properly considered needs of the public. Additionally, ALJ's findings have record support and were neither arbitrary, capricious, unsupported by the evidence, nor contrary to law. Sherritt v. Rocky Mtn. Fire Dist., 205 P.3d 544 (Colo. App. 2009).

What is of "official concern" to school district board of education is to be determined by reference to the official powers and duties delegated by the general assembly in the school laws. Mtn. States Legal Found. v. Denver Sch. Dist. No. 1, 459 F. Supp. 357 (D. Colo. 1978).

A matter of official concern is one which at the very least involves questions which come before the officials for an official decision. Campbell v. Joint Dist. 28-J, 704 F.2d 501 (10th Cir. 1983).

Proposed constitutional amendment not of official concern. A proposed amendment to the state constitution on a general election ballot is not a matter of official concern. Campbell v. Joint Dist. 28-J, 704 F.2d 501 (10th Cir. 1983).

Not determined solely by board. The characterization of a campaign issue as being of "official concern" is not a judgment which can be made solely by the board of education; such an interpretation of this section would give unlimited discretion to the school board to use school funds and school facilities whenever it suited the personal preference of the majority of the members. Mtn. States Legal Found. v. Denver Sch. Dist. No. 1, 459 F. Supp. 357 (D. Colo. 1978).

This section allows an employee with policy-making responsibility to expend public funds up to the $50 limit in expressing an opinion about a pending ballot issue. Regents of the Univ. of Colo. v. Meyer, 899 P.2d 316 (Colo. App. 1995).

Paid staff time is a contribution in kind for purposes of this section. Time spent by the state treasurer's staff during work hours on a non-volunteer basis preparing and disseminating press releases expressing the state treasurer's opposition to a statewide ballot issue therefore violated this section to the extent that the value of that time exceeded $50. Coffman v. Colo. Common Cause, 102 P.3d 999 (Colo. 2004).

State treasurer's press conference and press releases opposing a statewide ballot issue violated this section. The press releases were not balanced factual summaries of the ballot issue and were not resolutions because they were not formal expressions of a voting body. The state treasurer expended more than $50 in preparing the press releases and was not permitted to expend more than that to take a position of advocacy. Colo. Common Cause v. Coffman, 85 P.3d 551 (Colo. App. 2003), aff'd, 102 P.3d 999 (Colo. 2004).

Public school payroll deduction system for teachers' union dues, a portion of which was given by the union to a political action committee, did not constitute a "contribution in kind" because it did not support a specific "issue" or "candidate" that the political action committee supported or opposed during the time that the district made the payroll deductions. Mtn. States v. Secretary of State, 946 P.2d 586 (Colo. App. 1997) (decided under law in effect prior to 1997 amendment).

Brochure mailed by metropolitan districts explaining proposed improvements violated this section. The brochure, when read in its entirety, did not present arguments for and against the issue. In fact, it took a position exclusively in favor of the issue, presented no contrary arguments, and expressly advocated the passage of the bond initiative that was titled only days after the mailing of the brochure. Thus, it urged voters to vote for the initiative. Skruch v. Highlands Ranch Metro. Dists., 107 P.3d 1140 (Colo. App. 2004).

Although brochure did not mention ballot initiative by name, administrative law judge appropriately concluded that the language of this section does not require that level of specificity. The section prohibits "the urging of electors to vote a certain way." Skruch v. Highlands Ranch Metro. Dists., 107 P.3d 1140 (Colo. App. 2004).

School district did not make a prohibited contribution to a campaign under § 2(5)(a)(IV) of article XXVIII and subsection (1)(a)(I) of this section. A research report from a national think tank supportive of a school district's educational reform efforts that the district commissioned and paid for with public funds constitutes a "thing of value" for purposes of the definition of "contribution". The district did not make a prohibited contribution to a campaign, however, when it broadly disseminated an email of the report to county residents. Something of value is not given to a candidate when it is publicly distributed, even if the candidate happens to be among the public to which the thing of value has been made available. Keim v. Douglas County Sch. Dist., 2017 CO 81, 397 P.3d 377.

1-45-117.5. Media outlets - political records.

Any media outlet that is subject to the provisions of 47 U.S.C. sec. 315 (e) shall maintain and make available for public inspection such records as the outlet is required to maintain to comply with federal law or rules.

Source: L. 2010: Entire section added, (SB 10-203), ch. 269, p. 1231, § 4, effective May 25.

Cross references: For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 269, Session Laws of Colorado 2010.

1-45-118. Severability.

If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Source: Initiated 96: Entire article R&RE, effective upon proclamation of the Governor, January 15, 1997.

ARTICLE 46

Failure to Disclose a Deepfake in a Communication Concerning a Candidate for Elective Office

1-46-101. Legislative declaration.
1-46-102. Definitions.
1-46-103. Use of deepfakes in a communication concerning a candidate for elective office - disclosure requirements - limitations - rules.
1-46-104. Enforcement - administrative hearing.
1-46-105. Civil action - injunctive relief - damages.
1-46-106. Limitation.

1-46-101. Legislative declaration.

(1) The general assembly finds and declares that:

(a) The revolutionary innovations in generative artificial intelligence systems capable of producing image, audio, video, and multimedia content (AI-generated content) pose a threat to free and fair elections in the state;

(b) AI-generated content may be used to create deepfakes that falsely depict a candidate's speech or action in order to spread misinformation and disinformation at scale and with unprecedented speed; and

(c) A deepfake is analogous to a person being forced to say something in a video recorded under duress, where the victim appears to say something they would not normally say, one through force and the other through deepfake technology. A voter's opinion of a candidate may be irreparably tainted by a fabricated representation of a candidate or elected official saying or doing something they did not say or do. These false, negative portrayals may exist indefinitely once posted on the internet and permanently damage a candidate or elected official's reputation and even put their safety at risk.

Source: L. 2024: Entire article added, (HB 24-1147), ch. 250, p. 1655, § 3, effective July 1.

1-46-102. Definitions.

As used in this article 46, unless the context otherwise requires:

(1) (a) "AI-generated content" means image, video, audio, multimedia, or text content that is substantially created or modified by generative artificial intelligence such that the use of generative artificial intelligence alters the meaning or significance that a reasonable person would take away from the content.

(b) "AI-generated content" does not include image, video, audio, multimedia, or text content that is minimally edited, adjusted, or enhanced by generative artificial intelligence such that the use of generative artificial intelligence does not materially alter the meaning or significance that a reasonable person would take away from the content.

(2) (a) "Candidate" has the same meaning as set forth in section 2 (2) of article XXVIII of the state constitution; except that, "candidate" also includes any person who seeks nomination or election to any federal public office in this state.

(b) For purposes of this article 46, "candidate" also includes an incumbent or current office holder.

(3) "Deepfake" means an image, video, audio, or multimedia AI-generated content that falsely appears to be authentic or truthful and which features a depiction of an individual appearing to say or do something the individual did not say or do.

(4) "Generative artificial intelligence" or "generative AI" means an artificial intelligence system capable of generating novel image, video, audio, multimedia, or text content based on prompts or other forms of data provided by a person.

(5) "Metadata" means structural or descriptive information about data such as content, format, source, rights, accuracy, provenance, periodicity, granularity, publisher or responsible party, contact information, method of collection, and other descriptions.

(6) "Office" means the office of the secretary of state, or the section or division of the office of the secretary of state administering the election laws of this state pursuant to section 1-1-107 (4).

(7) "Person" has the same meaning as set forth in section 1-13-109 (3).

Source: L. 2024: Entire article added, (HB 24-1147), ch. 250, p. 1655, § 3, effective July 1.

1-46-103. Use of deepfakes in a communication concerning a candidate for elective office - disclosure requirements - limitations - rules.

(1) Except as provided in subsections (2) and (3) of this section, no person shall distribute, disseminate, publish, broadcast, transmit, or display a communication concerning a candidate for elective office that includes a deepfake to an audience that includes members of the electorate for the elective office to be represented by the candidate either sixty days before a primary election or ninety days before a general election, if the person knows or has reckless disregard for the fact that the depicted candidate did not say or do what the candidate is depicted as saying or doing in the communication.

(2) (a) The prohibition in subsection (1) of this section does not apply to a communication that includes a disclosure stating, in a clear and conspicuous manner, that: "This (image/audio/video/multimedia) has been edited and depicts speech or conduct that falsely appears to be authentic or truthful."

(b) A disclosure required under this section is considered to be made in a clear and conspicuous manner if the disclosure meets the following requirements:

(I) In a visual communication, the text of the disclosure statement appears in a font size no smaller than the largest font size of other text appearing in the visual communication. If the visual communication does not include any other text, the disclosure statement appears in a font size that is easily readable by the average viewer.

(II) In an audio communication, the disclosure statement shall be read in a clearly spoken manner in the same pitch, speed, language, and volume as the majority of the audio communication, at the beginning of the audio communication, at the end of the audio communication, and, if the audio communication is greater than two minutes in length, interspersed within the audio communication at intervals of not more than one minute each;

(III) The metadata of the communication includes the disclosure statement, the identity of the tool used to create the deepfake, and the date and time the deepfake was created;

(IV) The disclosure statement in the communication, including the disclosure statement in any metadata, is, to the extent technically feasible, permanent or unable to be easily removed by a subsequent user;

(V) The communication complies with any additional requirements for the disclosure statement that the secretary of state may adopt by rule to ensure that the disclosure statement is presented in a clear and conspicuous and understandable manner; and

(VI) In a broadcast or online visual or audio communication that includes a statement required by subsection (2) of this section, the statement satisfies all applicable requirements, if any, promulgated by the federal communications commission for size, duration, and placement.

(3) This section is subject to the following limitations:

(a) This section does not alter or negate any rights, obligations, or immunities of an interactive computer service in accordance with 47 U.S.C. sec. 230, as amended, and shall otherwise be construed in a manner consistent with federal law;

(b) This section does not apply to a radio or television broadcasting station, including a cable or satellite television operator, programmer, or producer that broadcasts a communication that includes a deepfake prohibited by subsection (1) of this section as part of a bona fide newscast, news interview, news documentary, or on-the-spot coverage of a bona fide news event, if the broadcast or publication clearly acknowledges through content or a disclosure, in a manner that can be easily heard and understood or read by the average listener or viewer, that there are questions about the authenticity of the deepfake in the communication;

(c) This section does not apply to a radio or television broadcasting station, including a cable or satellite television operator, programmer, producer, or streaming service, when the station is paid to broadcast a communication that includes a deepfake;

(d) This section does not apply to an internet website, or a regularly published newspaper, magazine, or other periodical of general circulation, including an internet or electronic publication or streaming service, that routinely carries news and commentary of general interest and that publishes a communication that includes a deepfake prohibited by subsection (1) of this section, if the publication clearly states that the communication that includes the deepfake does not accurately represent a candidate for elective office;

(e) This section does not apply to media content that constitutes satire or parody or the production of which is substantially dependent on the ability of an individual to physically or verbally impersonate the candidate and not upon generative AI or other technical means;

(f) This section does not apply to the provider of technology used in the creation of a deepfake; and

(g) This section does not apply to an interactive computer service, as defined in 47 U.S.C. sec. 230 (f)(2), for any content provided by another information content provider as defined in 47 U.S.C. sec. 230 (f)(3).

(4) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, as may be necessary to administer and enforce any provision of this article 46.

Source: L. 2024: Entire article added, (HB 24-1147), ch. 250, p. 1656, § 3, effective July 1.

1-46-104. Enforcement - administrative hearing.

Any person who believes that a violation of section 1-46-103, or the secretary of state's rules concerning the use of a deepfake in a communication concerning a candidate for elective office, has occurred may file a written complaint with the office in accordance with section 1-45-111.7 (2). Such complaint shall be reviewed and adjudicated in accordance with section 1-45-111.7 and the secretary of state's rules for complaints and administrative hearings pursuant to article 45 of this title 1.

Source: L. 2024: Entire article added, (HB 24-1147), ch. 250, p. 1658, § 3, effective July 1.

1-46-105. Civil action - injunctive relief - damages.

(1) A candidate whose appearance, action, or speech is depicted in a deepfake that is included in a communication distributed in violation of section 1-46-103 may:

(a) Seek injunctive or other equitable relief prohibiting the distribution, dissemination, publication, broadcast, transmission, or display of the communication, and preventing the defendant from otherwise further violating this article 46;

(b) Bring an action for compensatory and punitive damages against the person that distributed, disseminated, published, broadcast, transmitted, or displayed the communication;

(c) Seek reasonable attorney fees, filing fees, and costs of action; and

(d) Seek any other just and appropriate relief necessary to enforce this article 46 and remedy the harm caused by the violation of section 1-46-103.

(2) An action commenced pursuant to subsection (1)(a) of this section must be heard by the district court at the earliest practical time.

(3) An action commenced pursuant to subsection (1)(a) or (1)(b) of this section does not limit or preclude a plaintiff from securing or recovering any other available remedy, or from seeking to institute a criminal action against the defendant.

(4) In any civil action alleging a violation of section 1-46-103, the plaintiff bears the burden of establishing the violation by clear and convincing evidence.

Source: L. 2024: Entire article added, (HB 24-1147), ch. 250, p. 1658, § 3, effective July 1.

1-46-106. Limitation.

(1) Nothing in this article 46 limits or impairs in any way the right of the attorney general, or any person or entity, to pursue a legal action against a person in connection with a deepfake pursuant to any other law, cause of action, tort theory, or other authority.

(2) Nothing in this article 46 exempts a person who knowingly or recklessly distributes, disseminates, publishes, broadcasts, transmits, or displays a communication concerning a candidate for elective office that includes a false statement through a deepfake from criminal liability in accordance with section 1-13-109, or any other applicable provision of law.

Source: L. 2024: Entire article added, (HB 24-1147), ch. 250, p. 1659, § 3, effective July 1.

COLORADO VOTING RIGHTS ACT

ARTICLE 47

Colorado Voting Rights Act

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PART 1

VOTING RIGHTS

1-47-101. Short title.

This article 47 is known and may be cited as the "Colorado Voting Rights Act".

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 748, § 11, effective August 6.

1-47-102. Legislative declaration.

(1) The general assembly finds and declares that:

(a) Electoral systems or practices that deny to race, color, or language minority groups an equal opportunity to elect candidates of their choice are inconsistent with the right to free and open elections as provided by section 5 of article II of the state constitution and protections found in the fourteenth and fifteenth amendments to the United States constitution;

(b) Discrimination in voting is a persistent matter of statewide concern due to the history of discriminatory practices that create disparities that persist over time; and

(c) Voter turnout is a matter of statewide concern and is more likely to be low in local elections that are not coordinated with statewide elections.

(2) The general assembly further finds and declares that the prevention of discrimination in voting and voter turnout are matters of statewide concern.

(3) Therefore, it is in the best interest of the state to create a state voting rights act that protects against discrimination in voting and that encourages local elections to be held in coordination with statewide elections.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 748, § 11, effective August 6.

1-47-103. Definitions.

As used in this article 47, unless the context otherwise requires:

(1) "Attorney general" means the attorney general, as defined in the state constitution, and the office of the attorney general.

(2) "Ballot issue" has the same meaning as set forth in section 1-1-104 (2.3).

(3) "Ballot question" has the same meaning as set forth in section 1-1-104 (2.7).

(4) "Coordinated election" has the same meaning as set forth in section 1-1-104 (6.5).

(5) "County" includes a city and county.

(6) "Disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101, et seq.

(7) "Drop box" has the same meaning as set forth in section 1-1-104 (9.7).

(8) "Drop-off location" has the same meaning as set forth in section 1-1-104 (9.8). "Drop-off location" includes a ballot box as described in the "Colorado Municipal Election Code of 1965", article 10 of title 31.

(9) "Elector" has the same meaning as set forth in section 1-1-104 (12).

(10) "Eligible elector" has the same meaning as set forth in section 1-1-104 (16).

(11) "Gender expression" has the same meaning as set forth in section 24-34-301 (9).

(12) "Gender identity" has the same meaning as set forth in section 24-34-301 (10).

(13) "General election" has the same meaning as set forth in section 1-1-104 (17).

(14) "Language minority group" means individuals whose primary language is any language other than English.

(15) "Material disparity" means a nontrivial difference.

(16) "Method of election" means the method by which candidates are elected to the legislative body of the political subdivision.

(17) "Municipality" has the same meaning as set forth in section 31-1-101 (6).

(18) "Polarized voting" means voting in which there is a divergence in the candidate or political preferences, or electoral choices, of members in a protected class from the candidate or political preferences, or electoral choices, of other electors in the political subdivision.

(19) "Political subdivision" means a statutory or home rule county, city and county, city, town, or municipality. "Political subdivision" does not include a school district or special district.

(20) "Polling location" has the same meaning as set forth in section 1-1-104 (27.5).

(21) "Precinct" has the same meaning as set forth in section 1-1-104 (30).

(22) "Primary election" has the same meaning as set forth in section 1-1-104 (32).

(23) "Protected class" means a class of electors who are members of one or more racial, color, or language minority groups, including:

(a) A racial, color, or language minority group as referenced in the federal "Voting Rights Act of 1965", 52 U.S.C. sec. 10301, et seq.; and

(b) A minimum reporting category that has been officially recognized or considered through notice and comment by the United States census bureau.

(24) "Sexual orientation" has the same meaning as set forth in section 24-34-301 (24).

(25) "Voter service and polling center" has the same meaning as set forth in section 1-1-104 (50.5).

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 748, § 11, effective August 6.

1-47-104. Liberal construction.

This article 47 must be liberally construed to effectuate its purpose and to:

(1) Protect the right to cast a ballot and make the ballot valid;

(2) Ensure eligible individuals seeking voter registration are not impaired in being registered;

(3) Ensure eligible electors are not impaired in voting, including but not limited to having their votes counted;

(4) Make the fundamental right to vote more accessible to eligible electors; and

(5) Ensure, for members of protected classes, equitable access to opportunities to be registered to vote and to vote.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 750, § 11, effective August 6.

1-47-105. Prohibition on voter suppression.

A political subdivision shall not act in a manner that results in, will result in, or is intended to result in a material disparity between members of a protected class and other eligible electors in regard to voter participation, access to voting opportunities, or the opportunity or ability to participate in the political process. A violation of this section is established pursuant to section 1-47-204.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 750, § 11, effective August 6.

1-47-106. Prohibition on voter dilution.

(1) A political subdivision shall not enact or employ any method of election that has the effect of, or is motivated in part by the intention of, disparately impairing the equal opportunity or ability of members of a protected class to elect the candidates of their choice or otherwise influence the outcome of elections as a result of diluting the vote of members of that protected class.

(2) A violation of this section occurs when:

(a) (I) Elections in the political subdivision exhibit polarized voting that disparately impairs the equal opportunity or ability of members of a protected class to nominate or elect the candidates of their choice; or

(II) Based on the totality of the circumstances, the equal opportunity or ability of members of a protected class to nominate or elect the candidates of their choice is disparately impaired; and

(b) One or more new methods of election or changes to the existing election method exist that would likely mitigate the disparate impairment described in subsection (2)(a)(I) or (2)(a)(II) of this section.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 750, § 11, effective August 6.

1-47-107. Prohibition on voting prerequisites based on gender identity, gender expression, or sexual orientation.

A political subdivision shall not implement, impose, or enforce a qualification for eligibility to be an elector or another prerequisite to voting based on an individual's actual or perceived gender identity, gender expression, or sexual orientation.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 751, § 11, effective August 6.

1-47-108. Prohibition on additional voting prerequisites and burdens based on confinement in local jail.

(1) A political subdivision shall not implement, impose, or enforce an additional qualification for eligibility to be an elector or another prerequisite to voting based on an individual's confinement to a local jail, as defined in section 17-1-102 (7).

(2) A political subdivision shall not impose unnecessary burdens on an elector's access to election information, voter registration, or a ballot based on that elector's confinement to a local jail, as defined in section 17-1-102 (7).

(3) Nothing in this section affects the existing qualifications for eligibility as described in sections 1-2-103 (4) and 31-10-201 (3).

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 751, § 11, effective August 6.

PART 2

ENFORCEMENT OF VOTING RIGHTS

1-47-201. Enforcement of voting rights act - civil action - attorney general powers - priority on court calendar.

(1) (a) An aggrieved person may bring a civil action alleging a violation of section 1-47-105, 1-47-106, 1-47-107, or 1-47-108. The aggrieved person may file suit in the district court for the judicial district where the alleged violation occurred or in the Denver district court.

(b) An aggrieved person that may bring suit pursuant to subsection (1)(a) of this section includes:

(I) An individual;

(II) An organization whose membership includes or is likely to include aggrieved individuals;

(III) An organization whose mission would be frustrated by a violation of section 1-47-105, 1-47-106, 1-47-107, or 1-47-108; and

(IV) An organization that is or would be required to expend resources to fulfill its mission as a result of a violation of section 1-47-105, 1-47-106, 1-47-107, or 1-47-108.

(2) (a) To enforce this article 47, the attorney general may:

(I) Bring a civil action pursuant to subsection (1)(a) of this section; or

(II) Intervene in a civil action brought by an aggrieved person pursuant to subsection (1)(a) of this section.

(b) To enforce this article 47, the attorney general may conduct investigations and issue civil investigation demands related to potential violations of this article 47.

(3) A civil action brought pursuant to this section receives preference over other civil causes and must be heard and determined in preference to other civil business, regardless of position on the calendar.

(4) The state is a necessary party to any action in which an alleged violation is based on a political subdivision's implementation of the "Uniform Election Code of 1992", if the applicable state law does not afford discretion to the political subdivision in its implementation of such law.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 751, § 11, effective August 6.

1-47-202. Notification letter - when required.

(1) (a) Except as provided in subsection (2) of this section, before bringing a civil action against a political subdivision pursuant to section 1-47-201, an aggrieved person or the attorney general shall send by certified mail a notification letter to the political subdivision informing the political subdivision that it may be in violation of this article 47 and including details of the alleged violation. The notification letter must specify the violation or violations alleged and must contain a statement of facts to support such allegation.

(b) An aggrieved person or the attorney general must wait sixty calendar days after sending the notification letter required by subsection (1)(a) of this section to bring a civil action against a political subdivision pursuant to section 1-47-201; except that, if a political subdivision adopts a resolution pursuant to section 1-47-203, an aggrieved person or the attorney general must wait ninety calendar days after the passage of the resolution to bring a civil action against the political subdivision, or if the solution identified in the resolution pursuant to section 1-47-203 (2) requires an election in the political subdivision, the aggrieved person or the attorney general must wait one hundred eighty calendar days after the passage of the resolution to bring a civil action against the political subdivision.

(2) An aggrieved person or the attorney general may bring a civil action against a political subdivision pursuant to section 1-47-201 without first sending the notification letter required by subsection (1)(a) of this section if:

(a) The aggrieved person or the attorney general is seeking preliminary relief pursuant to section 1-47-206 (1); or

(b) A different aggrieved person or the attorney general previously sent a notification letter required by subsection (1)(a) of this section to the political subdivision that identified a substantially similar alleged violation of this article 47, sixty calendar days have passed since that notification letter was sent, and the political subdivision has not adopted a resolution providing for a solution to the alleged violation.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 752, § 11, effective August 6.

1-47-203. Political subdivision resolution - remedy for violation of Colorado Voting Rights Act - agreement with aggrieved person - definition.

(1) As used in this section, unless the context otherwise requires, "resolution" means a resolution of a political subdivision that meets the requirements described in subsection (2)(b) of this section.

(2) (a) After receiving a notification letter sent pursuant to section 1-47-202, the governing body of a political subdivision may adopt a resolution providing for a solution to the alleged violation of this article 47 as identified in the notification letter.

(b) A resolution must:

(I) Specifically identify the alleged violation of this article 47;

(II) Identify a specific proposed solution to the violation alleged in the notification letter;

(III) Affirm the intention of the political subdivision to enact and implement a solution to the identified alleged violation;

(IV) Outline specific measures that the political subdivision will take to enact and implement the identified solution; and

(V) Establish a schedule for enactment and implementation of the identified solution.

(c) The adoption of a resolution does not constitute an admission by the political subdivision of any liability under this article 47.

(3) (a) If a political subdivision adopts a resolution, the political subdivision shall implement the identified solution within ninety calendar days after the passage of the resolution; except that, if the identified solution requires an election in the political subdivision, the political subdivision shall implement the identified solution within one hundred eighty calendar days after the passage of the resolution.

(b) (I) Within thirty days after the implementation of the identified solution, an aggrieved person who sent the notification letter that prompted the solution may demand reimbursement for the cost of the work product generated to support the notification letter.

(II) An aggrieved person shall make the demand for reimbursement in writing and shall substantiate the demand with financial documentation, such as a detailed invoice for demography services or for the analysis of voting patterns in the political subdivision. A political subdivision

may request additional documentation if the provided documentation is insufficient to corroborate the claimed costs.

(III) A political subdivision shall reimburse an aggrieved person as described in this subsection (3)(b) for reasonable costs claimed or in an amount to which the political subdivision and the aggrieved person mutually agree. A political subdivision or an aggrieved person may file a declaratory judgment action to obtain a clarification of their rights under this subsection (3)(b).

(c) If a provision of law would preclude implementation or enactment of the solution identified in the resolution to resolve the alleged violation, the political subdivision that adopted the resolution may file a petition in district court seeking specific authority to implement the identified solution. A district court may grant approval or authority to implement the identified solution upon a political subdivision's petition that identifies with specificity the statute or other authority that prevents the political subdivision from enacting or implementing the identified solution.

(4) If an aggrieved person or the attorney general determines that the solution identified in the resolution does not remedy the alleged violation identified in the notification letter sent pursuant to section 1-47-202, an aggrieved person or the attorney general may bring a civil action against the political subdivision pursuant to section 1-47-201.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 753, § 11, effective August 6.

1-47-204. Prima facie case - voter suppression.

(1) (a) An aggrieved person or the attorney general bringing a civil action against a political subdivision pursuant to section 1-47-201 that alleges a violation of section 1-47-105 establishes a prima facie case of voter suppression if the person shows, by a preponderance of the evidence, that the challenged action results in, will result in, or is intended to result in a material disparity between members of a protected class and other eligible electors in regard to voter participation, access to voting opportunities, or the opportunity or ability to participate in the political process.

(b) If the aggrieved person or the attorney general establishes a prima facie case of voter suppression as described in subsection (1)(a) of this section, the burden shifts to the political subdivision to demonstrate by clear and convincing evidence that the challenged action is necessary to further an important, particularized governmental interest.

(c) If the political subdivision meets its burden as described in subsection (1)(b) of this section, the challenged action may nonetheless be held invalid if the aggrieved person or the attorney general demonstrates by a preponderance of the evidence that the political subdivision could comparably further the identified important, particularized governmental interest through

an alternative policy that results in a smaller disparity between members of a protected class and other eligible electors.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 754, § 11, effective August 6.

1-47-205. Factors in determining voter dilution.

(1) (a) In determining whether a challenged method of election exhibits polarized voting for purposes of section 1-47-106 (2)(a)(I), a court:

(I) Shall determine the presence of polarized voting based only on the combined electoral preferences of the groups comprising the protected class, as defined in the complaint. There is no requirement to show that each group or any subgroup within a protected class is separately polarized from other eligible electors.

(II) Shall not consider the causes of or reasons for polarized voting, including partisan explanations or discriminatory intent;

(III) May find a violation of section 1-47-106 based on any number or combination of elections, including one election; and

(IV) May consider analyses of relevant election results, including but not limited to:

(A) Elections for offices of the political subdivision;

(B) Elections held in the political subdivision for other offices, such as state or federal offices; or

(C) Other electoral choices that bear on the rights and privileges of the protected class.

(b) The following do not preclude a finding that a violation of section 1-47-106 exists:

(I) Evidence of nonpolarized voting in elections for offices outside the political subdivision;

(II) Nonstatistical or nonquantitative evidence of nonpolarized voting, where allegations of polarized voting are based on quantitative or statistical evidence; or

(III) Low turnout or registration rates among members of a protected class.

(2) (a) In determining whether, based on the totality of the circumstances, the equal opportunity or ability of members of a protected class to nominate or elect the candidates of their choice is disparately impaired for purposes of section 1-47-106 (2)(a)(II), a court may consider the following factors:

(I) The history of discrimination affecting members of the protected class;

(II) The extent to which members of the protected class are disadvantaged or otherwise bear the effects of public or private discrimination in areas that may hinder their ability to participate effectively in the political process, including education, employment, health, criminal justice, housing, transportation, land use, or environmental protection;

(III) The extent to which members of the protected class vote at lower rates than other eligible electors;

(IV) The extent to which members of the protected class contribute money to political campaigns or political causes at lower rates than other individuals;

(V) The extent to which members of the protected class have been elected to office in the political subdivision;

(VI) The extent to which candidates who are members of the protected class have faced barriers with respect to accessing the ballot, receiving financial support, or receiving other support for an election;

(VII) The extent to which candidates face hostility or barriers while campaigning on account of their membership in the protected class; and

(VIII) The use of overt or subtle racial appeals in political campaigns in the political subdivision or surrounding adoption or maintenance of the challenged method of election.

(b) None of the factors described in subsection (2)(a) of this section are dispositive or necessary to establish the existence of a violation of section 1-47-106 and no specified number or combination of factors is required to establish a violation of section 1-47-106.

(3) Whether members of a protected class typically elect candidates of their choice to the relevant governing body in approximate proportion to their total number or share of the population may be relevant to finding a violation of section 1-47-106 and determining an appropriate remedy.

(4) The fact that members of a protected class are not geographically compact or concentrated does not preclude finding a violation of section 1-47-106, but may be considered in determining an appropriate remedy for a violation.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 755, § 11, effective August 6.

1-47-206. Remedy for violation of Colorado Voting Rights Act - preliminary relief - award of costs and fees.

(1) (a) An aggrieved person that brings a civil action against a political subdivision pursuant to section 1-47-201, or the attorney general, may seek preliminary relief concerning an upcoming election held in the political subdivision, including if the civil action is brought within the one-hundred-twenty-day period prior to the election.

(b) A court of competent jurisdiction hearing a civil action filed pursuant to section 1-47-201 that seeks preliminary relief pursuant to subsection (1)(a) of this section shall grant preliminary relief if the court determines that:

(I) The aggrieved person or the attorney general is reasonably likely to succeed on the merits;

(II) There is a danger of immediate and irreparable injury, loss, or damage that may be prevented by granting preliminary relief; and

(III) An appropriate remedy to the alleged violation can be implemented prior to the election in a manner that will not unduly disrupt the election.

(2) (a) If a court of competent jurisdiction hearing a civil action filed pursuant to section 1-47-201 finds a violation of this article 47, the court shall order appropriate remedies that are tailored to address the violation.

(b) The court shall consider remedies proposed by a party and may consider remedies proposed by interested nonparties. The court shall not provide deference or priority to a remedy proposed by a defendant or political subdivision.

(c) In determining an appropriate remedy, the court shall consider how disruptive the remedy will be to state law, the uniform conduct of general, primary, or coordinated elections or an imminent municipal election, and the operations of the political subdivision.

(d) If a provision of law other than this article 47 would preclude an otherwise appropriate remedy, the court may nonetheless order a political subdivision to implement the remedy that is inconsistent with that provision of law.

(e) A remedy ordered by a court must not impede a political subdivision's or the state's ability to verify voter identity on mail ballot envelopes according to applicable procedures set forth in the "Uniform Election Code of 1992", the "Colorado Municipal Election Code of 1965", and rules adopted by the secretary of state.

(3) If a court of competent jurisdiction hearing a civil action filed pursuant to section 1-47-201 finds a violation of this article 47, the court may award reasonable attorney fees and costs to the prevailing party; except that, if a political subdivision is the prevailing party, the court may not award fees or costs unless the court finds the civil action to be frivolous.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 756, § 11, effective August 6.

1-47-207. Attorney general enforcement.

Enforcement by the attorney general of this article 47 or related legal actions are brought solely at the attorney general's discretion on behalf of the state. Actions brought by the attorney general pursuant to this article 47 are brought under the attorney general's own authority and not on behalf of the secretary of state.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 757, § 11, effective August 6.

PART 3

STATEWIDE ELECTION INFORMATION

1-47-301. Election data collection and maintenance.

(1) (a) The secretary of state shall collect and maintain the following data in an electronic format:

(I) Annual estimates of total population, voting age population, and citizen voting age population by race, ethnicity, language minority group, and disability status for each political subdivision, which are specified at the precinct level, if available, or the district or county level and which are based on information from the United States census bureau, including from the American community survey, or information of comparable quality collected by a public entity. The department of local affairs, created in section 24-1-125, shall annually provide the required estimates to the secretary of state. The secretary of state's office shall, to the extent that such data exists, annually provide the department of local affairs with voting precinct boundaries in the form that such data exists.

(II) Election results at the precinct level, if any, for state and political subdivision elections; and

(III) Geocoded locations of voter service and polling centers, polling locations, ballot drop boxes, and ballot drop-off locations for each election in each political subdivision, if available, in addition to the number of days and hours that each voter service and polling center, polling location, or ballot drop-off location is open.

(b) The secretary of state shall retain the data described in subsection (1)(a) of this section for the length of time that it is available or the preceding twelve years and shall maintain the data on as current a basis as is possible.

(c) The secretary of state shall make the data described in subsection (1)(a) of this section available on the secretary of state's website in an accessible and appropriate electronic format; except that personally identifiable voter information that is not publicly available is not published and accessible.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 758, § 11, effective August 6.

1-47-302. Submission of election data by political subdivisions.

(1) After the certification of an election of any political subdivision, the entity responsible for administering the election shall submit to the secretary of state the following information in an accessible and appropriate format as determined by the secretary of state:

(a) Election results, specified at the precinct level if available; and

(b) Election district and precinct boundaries, if available.

(2) The entity responsible for administering the election is not required to submit information described in subsection (1) of this section if the secretary of state is already in possession of the information.

(3) The secretary of state shall make the information described in subsection (1) of this section available on the secretary of state's website in an accessible and appropriate electronic format.

(4) The secretary of state shall provide adequate technological security measures to prevent unauthorized access to voter-related records and shall establish adequate and reasonable technological security requirements for the exchange or transfer of data.

Source: L. 2025: Entire article added, (SB 25-001), ch. 178, p. 758, § 11, effective August 6.