

## CHAPTER 216

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**ELECTIONS**

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## SENATE BILL 17-305

BY SENATOR(S) Lundberg and Fenberg, Aguilar, Court, Guzman, Kagan, Merrifield, Neville T., Scott, Todd, Williams A., Lambert, Martinez Humenik, Tate;  
also REPRESENTATIVE(S) Foote and Neville P., Becker K., Beckman, Benavidez, Buck, Hooton, Humphrey, Leonard, Liston, Lontine, Lundeen, Navarro, Pabon, Ransom, Saine, Sias, Van Winkle, Williams D., Wist, Buckner, Coleman, Garnett, Hamner, Herod, Kennedy, Kraft-Tharp, Mitsch Bush, Rankin, Rosenthal, Young, Duran.

**AN ACT**

**CONCERNING MODIFICATIONS TO SELECT STATUTORY PROVISIONS AFFECTING PRIMARY ELECTIONS ENACTED BY VOTERS AT THE 2016 STATEWIDE GENERAL ELECTION TO FACILITATE THE EFFECTIVE IMPLEMENTATION OF THE STATE'S ELECTION LAWS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 1-2-204, **add** (2)(j.5) as follows:

**1-2-204. Questions answered by elector - rules.** (2) In addition, each elector shall correctly answer the following:

(j.5) IN THE CASE OF AN UNAFFILIATED ELECTOR, THE NAME OF THE POLITICAL PARTY, IF ANY, WHOSE PRIMARY ELECTION BALLOT THE ELECTOR DESIRES TO RECEIVE IN THE MAIL.

**SECTION 2.** In Colorado Revised Statutes, 1-4-101, **amend** (2) introductory portion and (2)(a) as follows:

**1-4-101. Primary elections - when - nominations - expenses.** (2) Each political party that is entitled to participate in the primary election ~~shall~~ **MUST** have a separate party ballot for use by electors affiliated with that political party. ~~In addition, all political parties that are entitled to participate in the primary election shall have their candidates placed on a single combined ballot to be used by unaffiliated electors that contains the names of the candidates of each of the political parties and that are clearly and conspicuously segregated from the names of the candidates of any other political party. All candidates of a political party shall be grouped together and~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

separated by the office each candidate is seeking. Such ballots shall clearly advise that an elector may cast the ballot of only one major political party and that any ballot in which votes have been cast in the primary of more than one party shall be void and not counted. However, 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;

(a) ~~If it is not practicable for a county to use a single combined ballot that contains the names of the candidates of each of the political parties,~~ The county clerk and recorder shall send to all active electors in the county who have not declared an affiliation OR PROVIDED A BALLOT PREFERENCE with a political party 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 ~~void~~ REJECTED and will not be counted.

**SECTION 3.** In Colorado Revised Statutes, 1-4-1203, **amend** (1) and (4)(b); **repeal** (7); and **add** (4)(c) and (4)(d) as follows:

**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.

(4) (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. ~~in addition, all political parties that are entitled to participate in the primary election shall have their candidates placed on a single combined ballot to be used by unaffiliated electors that contains the names of the candidates of each of the political parties and that are clearly and conspicuously segregated from the names of the candidates of any other political party. across the top of each such ballot the words "primary election ballot for unaffiliated voters" shall be printed and clearly advise that an elector may cast the ballot of only one political party and that any ballot in which votes have been cast in the primary of more than one party shall be void and not counted.~~

(c) THE COUNTY CLERK AND RECORDER SHALL SEND TO ALL ACTIVE ELECTORS IN THE COUNTY WHO HAVE NOT DECLARED AN AFFILIATION OR PROVIDED A BALLOT PREFERENCE 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.

~~(7) The state shall reimburse the counties for all expenses incurred and shown to be directly attributable to the preparation and conduct of the presidential primary election in the same manner as the state reimburses counties for state ballot issues in section 1-5-505.5; except that the reimbursement must be based on the number of active registered electors participating in the presidential primary election as of the day of the presidential primary election. 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 under the terms of this section in conformity with section 24-21-104.5.~~

**SECTION 4.** In Colorado Revised Statutes, 1-4-1204, **amend** (1)(c) and (4) as follows:

**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:

(c) Have submitted to the secretary, ~~by the second day of January in the year of the presidential primary election~~ 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 ~~of~~ 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~~ ARTICLE 4, as applicable.

(4) Any challenge to the listing of any candidate on the presidential primary election ballot must be made in writing and filed with the ~~secretary~~ 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 writing~~ in a summary manner of an alleged impropriety that gives rise to the complaint. ~~The secretary shall address by rule other requirements of a valid challenge. In response to a valid challenge brought under this subsection (4), the secretary shall transmit notice of the challenge forthwith to all candidates appearing on the presidential primary ballot and to the state chairperson of each major political party. No later than five days after the challenge is filed, a hearing must be held at which time the secretary~~ DISTRICT COURT shall hear the challenge and assess the validity of all alleged improprieties. The ~~secretary~~ 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. ~~The secretary of state's decisions upon matters of substance are open to review, if prompt application is made, as provided in section 1-1-113~~ ANY ORDER ENTERED BY THE DISTRICT COURT MAY BE REVIEWED IN ACCORDANCE WITH SECTION 1-1-113 (3).

**SECTION 5.** In Colorado Revised Statutes, 1-7.5-107, **amend** (3)(a)(II); and **repeal** (2.5)(a)(II) as follows:

**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 - repeal.** (2.5) (a) (II) ~~For a primary mail ballot election, in addition to the items described in the notice required by subparagraph (I) of this paragraph (a), such notice shall advise eligible electors who are not affiliated with a political party of the ability to vote in the primary election of any political party. The notice must clearly and conspicuously advise electors that any primary ballot containing votes for a candidate of more than one political party shall not be counted.~~

(3)(a)(II) For a primary mail ballot election, the mail ballot packet must be mailed only to ~~those~~ active registered electors. ~~who are affiliated with a political party that is participating in the election.~~ If the twenty-second day before an election is a Saturday, Sunday, or legal holiday, the county clerk and recorder or designated election official may mail ballot packets pursuant to subparagraph (I) of this paragraph (a) on the Friday immediately preceding the twenty-second day.

**SECTION 6.** In Colorado Revised Statutes, 1-7.5-106.5, **amend** (3) as follows:

**1-7.5-106.5. Registration record - list of mail ballots.** (3) The county clerk and recorder or designated election official shall ~~keep a list of~~ 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 ~~shall be noted on the list~~ MUST BE RECORDED IN THE STATEWIDE VOTER REGISTRATION SYSTEM. ~~The list is open~~ INFORMATION IS SUBJECT to public inspection under applicable laws and rules.

**SECTION 7.** In Colorado Revised Statutes, **amend** 24-21-104.5 as follows:

**24-21-104.5. General fund appropriation - cash fund appropriation - elections - legislative intent.** (1) The general assembly is authorized to appropriate ~~moneys~~ MONEY from the department of state cash fund to the department of state to cover the costs of the local county clerk and recorders relating to the conduct of presidential primary elections, general elections, and November odd-year elections. If the amount of ~~moneys~~ MONEY in the department of state cash fund is insufficient to cover such costs, the general assembly may appropriate additional general fund ~~moneys~~ MONEY to cover such costs after exhausting all ~~moneys~~ MONEY in the department of state cash fund. The intent of the general assembly is to authorize the

appropriation of department of state cash fund ~~moneys~~ MONEY and general fund ~~moneys~~ MONEY to the department of state to offset some of the costs of local county clerk and recorders associated with the additional election duties and requirements resulting from the preparation and conduct of presidential primary elections and from the passage of section 20 of article X of the state constitution and from the increased number of initiatives that are being filed.

(2) FOR A PRESIDENTIAL PRIMARY ELECTION, AS DEFINED IN SECTION 1-4-1202 (2), THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FROM THE GENERAL FUND TO COVER THE COSTS OF THE ELECTION INCURRED BY THE STATE ARISING FROM THE PREPARATION AND CONDUCT OF A PRESIDENTIAL PRIMARY ELECTION IN ACCORDANCE WITH PART 12 OF ARTICLE 4 OF TITLE 1. IN ADDITION, BY MEANS OF AN APPROPRIATION FROM THE GENERAL FUND, THE STATE SHALL ALSO REIMBURSE THE COUNTIES FOR ALL OF THE ACTUAL DIRECT COSTS THEY INCUR ARISING FROM THE PREPARATION AND CONDUCT OF SUCH ELECTION IN ACCORDANCE WITH PART 12 OF ARTICLE 4 OF TITLE 1. BY RULE PROMULGATED IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE 24, THE SECRETARY OF STATE SHALL DETERMINE THE TYPE OF ACTUAL DIRECT COSTS FOR WHICH THE COUNTIES ARE ENTITLED TO REIMBURSEMENT PURSUANT TO SECTION 1-4-1203 (5) AND THIS SUBSECTION (2).

**SECTION 8. Appropriation.** For the 2017-18 state fiscal year, \$157,796 is appropriated to the department of state. This appropriation is from the department of state cash fund created in section 24-21-104 (3)(b), C.R.S. To implement this act, the department may use this appropriation for personal services related to information technology services.

**SECTION 9. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to primary elections held on or after the applicable effective date of this act.

Approved: May 19, 2017