

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 16-1162.01 Kate Meyer x4348

HOUSE BILL 16-1442

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A BILL FOR AN ACT

101 **CONCERNING TECHNICAL MODIFICATIONS TO LAWS ENACTED IN 2014**
102 **GOVERNING THE ADMINISTRATION OF NONPARTISAN ELECTIONS**
103 **CONDUCTED BY A LOCAL GOVERNMENT THAT ARE NOT**
104 **COORDINATED BY A COUNTY CLERK AND RECORDER.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The "Colorado Local Government Election Code" (code), enacted in 2014, governs nonpartisan elections not coordinated by county clerk and recorders. The bill makes various updates to the code.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
2nd Reading Unamended
April 21, 2016

Section 1 of the bill defines the term "affidavit".

Section 2 clarifies that the date upon which a special district director's term of office commences is calculated based on the date that election results are certified, rather than a date following the survey of returns.

With regard to submission of self-nomination and acceptance forms or letters, **section 3** requires an amended form or letter to be submitted until the normal close of business on the 67th day prior to an election.

Sections 4 and 7 prohibit a candidate or a member of a candidate's immediate family from serving as an election judge or watcher, respectively. Section 4 also reorganizes existing law for clarification.

Current law requires a designated election official to give notice of a court-ordered special district election. **Section 5** directs a designated election official to also take any other action a court may order in such circumstances.

Section 6 sets forth the circumstances under which a designated election official may recertify a previously certified ballot.

Ballots for elections conducted under the code must feature both a stub and a duplicate stub. **Section 8** removes the requirement for ballots to contain a duplicate stub for elections conducted as independent mail ballot elections under the code.

With regard to applications for absentee voter ballots, **section 9**:

! Changes the day of the week, from the Friday before a local government election to the Tuesday before such an election, by which applications for such ballots must be filed; and

! Requires identification return envelopes to contain a nonforwarding instruction.

Section 10 provides that the secretary of the local government processes applications for permanent absentee voter status when there is no presently appointed designated election official.

Section 11 aligns terminology with respect to entities that may conduct an independent mail ballot election under the code.

Section 12 clarifies that a designated election official must send a mail ballot to each covered elector, as that term is defined by the "Uniform Military and Overseas Voter Act", residing within the boundaries of a local government.

Section 13 removes the requirement that a mail ballot return envelope have a flap covering the elector's signature.

Section 14 makes a grammatical correction.

Section 15 relocates provisions requiring that a copy of any certificate of election be filed with the division of local affairs in the department of local government.

Regarding contests of elections conducted under the code:

- ! Currently, a statement of intent to contest an election may be verified by affidavit executed by either the contestor or any eligible elector of the local government that conducted the election. **Section 16** removes the latter so that the contestor himself or herself must execute the verifying documentation.
- ! **Section 17** requires a contestor's statement, or a contestee's answer, to list the persons, rather than the number of persons, whose votes caused the contest.

Currently, the laws governing recall of municipal officers apply to recall of special district directors. **Section 18** clarifies that provision.

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

2 **SECTION 1.** In Colorado Revised Statutes, 1-13.5-103, **add** (1.5)
 3 as follows:

4 **1-13.5-103. Definitions.** As used in this article, unless the context
 5 otherwise requires:

6 (1.5) "AFFIDAVIT" MEANS A SWORN STATEMENT IN WRITING,
 7 INCLUDING A SELF-AFFIRMATION.

8 **SECTION 2.** In Colorado Revised Statutes, 1-13.5-112, **amend**
 9 (1) (a) as follows:

10 **1-13.5-112. Commencement of terms - nonpartisan officers.**

11 (1) Unless otherwise provided by law, the regular term of office of a
 12 nonpartisan officer elected at a regular election commences the earlier of
 13 the following:

14 (a) No later than thirty days ~~following the survey of returns~~ AFTER
 15 THE DATE THAT THE ELECTION RESULTS ARE CERTIFIED PURSUANT TO
 16 SECTION 1-13.5-1305 and upon the signing of an oath and posting of a
 17 bond, where required; or

18 **SECTION 3.** In Colorado Revised Statutes, 1-13.5-303, **amend**
 19 (5) as follows:

1 **1-13.5-303. Candidates for special district or business**
2 **improvement district director - self-nomination and acceptance form.**

3 (5) The self-nomination and acceptance form or letter must be verified
4 and processed substantially as provided in section 1-4-908, a protest on
5 such a form or letter ~~shall~~ MUST be determined substantially as provided
6 in sections 1-4-909 and 1-4-911, and cure of such a form or letter ~~shall~~
7 MUST be allowed substantially as provided for in section 1-4-912; EXCEPT
8 THAT AN AMENDED SELF-NOMINATION AND ACCEPTANCE FORM OR LETTER
9 MAY BE ACCEPTED BY THE DESIGNATED ELECTION OFFICIAL UNTIL THE
10 NORMAL CLOSE OF BUSINESS ON THE SIXTY-SEVENTH DAY BEFORE AN
11 ELECTION.

12 **SECTION 4.** In Colorado Revised Statutes, 1-13.5-401, **amend**
13 (1) as follows:

14 **1-13.5-401. Appointment of election judges.** (1) (a) Except as
15 provided in subsection (2) of this section, at least fifteen days before each
16 local government election, the governing body shall appoint the election
17 judges.

18 (b) Each election judge must be registered to vote in Colorado and
19 at least eighteen years of age. Election judges ~~shall~~ MUST be appointed
20 pursuant to this article without regard to party affiliation. NEITHER A
21 CURRENT CANDIDATE FOR DIRECTOR NOR ANY IMMEDIATE FAMILY
22 MEMBER, TO THE SECOND DEGREE, OF SUCH CANDIDATE IS ELIGIBLE TO
23 SERVE AS AN ELECTION JUDGE.

24 (c) The designated election official shall make and file in his or
25 her office a list of all individuals so appointed, giving their names and
26 addresses. The list is a public record and is subject to inspection and
27 examination during office hours by any elector of the local government

1 with the right to make copies thereof.

2 **SECTION 5.** In Colorado Revised Statutes, 1-13.5-510, **amend**
3 (1) as follows:

4 **1-13.5-510. Court-ordered elections.** (1) When an election is
5 ordered by the court for a special district, the court shall authorize the
6 designated election official to give notice, AND TAKE SUCH OTHER
7 ACTIONS, as provided in the order.

8 **SECTION 6.** In Colorado Revised Statutes, **amend** 1-13.5-511
9 as follows:

10 **1-13.5-511. Certification of ballot.** (1) No later than sixty days
11 before any election, the designated election official of each local
12 government that intends to conduct an election shall certify the order of
13 the ballot and ballot content. The order of the ballot and ballot content
14 must include the name and office of each candidate for whom a petition
15 or self-nomination form or letter has been filed with the designated
16 election official and any ballot issues or ballot questions to be submitted
17 to the eligible electors.

18 (2) AFTER A DESIGNATED ELECTION OFFICIAL HAS CERTIFIED THE
19 ORDER OF THE BALLOT AND BALLOT CONTENT IN ACCORDANCE WITH
20 SUBSECTION (1) OF THIS SECTION, THE DESIGNATED ELECTION OFFICIAL
21 MAY RECERTIFY THE BALLOT IF:

22 (a) A CANDIDATE WITHDRAWS FROM A RACE, AND THE
23 WITHDRAWAL WOULD NOT CHANGE THE ORDER THAT THE CANDIDATE
24 NAMES APPEAR ON THE BALLOT AS PREVIOUSLY DETERMINED BY THE LOT
25 DRAWING; OR

26 (b) THERE ARE TECHNICAL REVISIONS TO A BALLOT ISSUE OR
27 BALLOT QUESTION PRIOR TO THE BALLOTS BEING PRINTED.

1 **SECTION 7.** In Colorado Revised Statutes, 1-13.5-602, **amend**
2 (1) (a) (I) as follows:

3 **1-13.5-602. Watchers - definition.** (1) (a) (I) Each candidate for
4 office, or interested party in case of a ballot issue or ballot question, at a
5 local government election is entitled to appoint an eligible elector to act
6 on his or her behalf in every polling place in which he or she is a
7 candidate or in which the issue or question is on the ballot; EXCEPT THAT
8 NEITHER A CURRENT CANDIDATE FOR DIRECTOR NOR ANY IMMEDIATE
9 FAMILY MEMBER, TO THE SECOND DEGREE, OF SUCH CANDIDATE IS
10 ELIGIBLE TO SERVE AS A WATCHER FOR THAT CANDIDATE.

11 **SECTION 8.** In Colorado Revised Statutes, 1-13.5-902, **amend**
12 (8) as follows:

13 **1-13.5-902. Ballots and sample ballots - delivery - format.**
14 (8) (a) The extreme top part of each ballot must be divided by two
15 perforated or dotted lines into two spaces, each of which must be not less
16 than one inch in width, the top portion being known as the stub and the
17 next portion as the duplicate stub. Upon each of said stubs nothing is to
18 be printed except the number of the ballot, and the same number must be
19 printed on both stubs. Stubs and duplicate stubs of ballots must both be
20 numbered consecutively. There must be printed on the stub of an absentee
21 ballot "Absentee Ballot Number [...]", and such stubs must be numbered
22 consecutively beginning with number one. All ballots must be uniform
23 and of sufficient length and width to allow for the names of candidates
24 and the proposed questions to be printed in clear, plain type with a space
25 of at least one-half inch between the different columns on said ballot. On
26 each ballot must be printed the endorsement "official ballot for . . .", and
27 after the word "for" must follow the designation of the local government

1 for which the ballot is prepared, the date of the election, and a facsimile
2 of the signature of the designated election official. The ballot shall NOT
3 contain ~~no~~ ANY caption or other endorsement or number. Each designated
4 election official shall use precisely the same quality and tint of paper, the
5 same kind of type, and the same quality and tint of plain black ink for all
6 ballots furnished by the designated election official at one election.

7 (b) A DUPLICATE STUB IS NOT REQUIRED FOR A BALLOT THAT IS
8 PREPARED FOR AN INDEPENDENT MAIL BALLOT ELECTION PURSUANT TO
9 PART 11 OF THIS ARTICLE.

10 **SECTION 9.** In Colorado Revised Statutes, 1-13.5-1002, **amend**
11 (1) (b) and (2) (b) as follows:

12 **1-13.5-1002. Application for absentee voter's ballot - delivery**
13 **- list.** (1) (b) The application must be filed with the designated election
14 official not later than the close of business on the ~~Friday~~ TUESDAY
15 immediately preceding the next local government election in which the
16 absentee voter wishes to vote by absentee voter's ballot.

17 (2) (b) If the person is found to be so entitled, the designated
18 election official shall deliver, as soon as practicable but not more than
19 seventy-two hours after the blank ballots have been received, an official
20 absentee voter's ballot, an identification return envelope with the affidavit
21 or the envelope properly filled in as to address of residence as shown by
22 the records of the county clerk and recorder, and an instruction card. THE
23 IDENTIFICATION RETURN ENVELOPE MUST STATE "DO NOT FORWARD.
24 ADDRESS CORRECTION REQUESTED." OR ANY OTHER SIMILAR STATEMENT
25 THAT IS IN ACCORDANCE WITH UNITED STATES POSTAL SERVICE
26 REGULATIONS. The delivery must be made to the applicant either
27 personally in the designated election official's office or by mail to the

1 mailing address given in the application an official absentee voter's ballot.

2 **SECTION 10.** In Colorado Revised Statutes, 1-13.5-1003, **add**
3 (3) as follows:

4 **1-13.5-1003. Application for permanent absentee voter status.**

5 (3) IF THERE IS NO DESIGNATED ELECTION OFFICIAL PRESENTLY
6 APPOINTED IN THE LOCAL GOVERNMENT, THE SECRETARY OF THE LOCAL
7 GOVERNMENT SHALL PROCESS THE APPLICATION FOR PERMANENT
8 ABSENTEE STATUS IN ACCORDANCE WITH SUBSECTIONS (1) AND (2) OF THIS
9 SECTION.

10 **SECTION 11.** In Colorado Revised Statutes, 1-13.5-1102,
11 **amend** (1) as follows:

12 **1-13.5-1102. Definitions.** As used in this part 11, unless the
13 context otherwise requires:

14 (1) "Independent mail ballot election" means a mail ballot election
15 that the governing body of a ~~political subdivision, other than a school~~
16 ~~district~~, LOCAL GOVERNMENT determines ~~shall~~ WILL not be coordinated by
17 the county clerk and recorder.

18 **SECTION 12.** In Colorado Revised Statutes, 1-13.5-1103,
19 **amend** (4) as follows:

20 **1-13.5-1103. Independent mail ballot elections - optional -**
21 **cooperation with county clerk and recorder permitted - exception.**

22 (4) Notwithstanding any provision of this article to the contrary, the
23 designated election official of a local government shall mail a ballot to
24 every eligible elector of the local government WHO RESIDES WITHIN THE
25 BOUNDARIES OF THE LOCAL GOVERNMENT AND who is a covered voter, as
26 that term is defined in section 1-8.3-102, for any election conducted under
27 this article.

1 **SECTION 13.** In Colorado Revised Statutes, 1-13.5-1105, **repeal**
2 (4) (c) (III) as follows:

3 **1-13.5-1105. Procedures for conducting independent mail**
4 **ballot election.** (4) (c) (III) ~~The return envelope is required to have a flap~~
5 ~~covering the signature.~~

6 **SECTION 14.** In Colorado Revised Statutes, 1-13.5-1106,
7 **amend** (1) as follows:

8 **1-13.5-1106. Delivery of misdelivered ballots.** (1) If an elector
9 delivers a ballot, mail ballot, or absentee voter's ballot to the designated
10 election official, polling place, OR election judge of another local
11 government, or to the county clerk and recorder, the recipient may accept
12 the ballot and, if accepted, must arrange for its delivery to the proper
13 person by 7 p.m. on election day. The reasonable cost of such delivery
14 must be paid by the local government conducting the election in which
15 the voter intended to cast the ballot.

16 **SECTION 15.** In Colorado Revised Statutes, **amend** 1-13.5-1305
17 as follows:

18 **1-13.5-1305. Statement - certificates of election.** (1) No later
19 than the fourteenth day following the election, the canvass board shall
20 make statements from the official abstract of votes that show the names
21 of the candidates, any ballot issue or ballot question, and the number of
22 votes given to each. The canvass board shall certify the statement to be
23 correct and subscribe their names thereto. The canvass board shall then
24 determine which persons have been duly elected by the highest number
25 of votes and shall endorse and subscribe on such statements a certificate
26 of their determination. THE DESIGNATED ELECTION OFFICIAL SHALL ALSO
27 FILE A COPY OF THE CERTIFICATE WITH THE DIVISION OF LOCAL

1 GOVERNMENT IN THE DEPARTMENT OF LOCAL AFFAIRS.

2 (2) The designated election official shall make and transmit to
3 each of the persons thereby declared to be elected a certificate of the
4 person's election. ~~The designated election official shall also file a copy in~~
5 ~~the office of the division of local government in the department of local~~
6 ~~affairs.~~

7 **SECTION 16.** In Colorado Revised Statutes, **amend** 1-13.5-1403
8 as follows:

9 **1-13.5-1403. Filing statement - contents.** The contestor shall file
10 in the office of the clerk of the district court, within ten days after the
11 expiration of the period within which a recount may be requested
12 pursuant to section 1-13.5-1306, or within ten days after the conclusion
13 of a recount conducted pursuant to section 1-13.5-1306, whichever is
14 later, a written statement of the contestor's intention to contest the
15 election and setting forth the name of the contestor, that the contestor is
16 an eligible elector of the local government, the name of the contestee, the
17 office contested, the time of election, and the particular causes of the
18 contest. The statement must be verified by the affidavit of the contestor
19 ~~or any eligible elector of the local government~~ that the causes set forth in
20 the statement are true to the best of the affiant's knowledge and belief.

21 **SECTION 17.** In Colorado Revised Statutes, 1-13.5-1404,
22 **amend** (3) as follows:

23 **1-13.5-1404. Summons - answer.** (3) If the reception of illegal
24 votes or the rejection of legal votes is alleged as the cause of the contest,
25 a list of the ~~number of~~ persons who so voted or offered to vote must be
26 set forth in the statement of the contestor and must be likewise set forth
27 in the answer of the contestee if any such cause is alleged in his or her

1 answer by way of counterstatement.

2 **SECTION 18.** In Colorado Revised Statutes, 32-1-906, **amend**
3 (1) (a); and **add** (1) (b.5) as follows:

4 **32-1-906. Directors subject to recall - applicability of laws.**

5 (1) (a) Any director elected to the board of any special district who has
6 actually held office for at least six months may be recalled from office by
7 the eligible electors of the special district. A petition signed by the lesser
8 of three hundred eligible electors or forty percent of the eligible electors
9 demanding the recall of any director named in the petition shall be filed
10 in the court. ~~Any recall shall be governed by the procedures set forth in~~
11 ~~part 5 of article 4 of title 31, C.R.S.~~

12 (b.5) THE RECALL OF A SPECIAL DISTRICT DIRECTOR IS GOVERNED
13 BY THE PROCEDURES SET FORTH IN PART 5 OF ARTICLE 4 OF TITLE 31,
14 C.R.S.; EXCEPT THAT:

15 (I) THE TERM "REGISTERED ELECTOR" MUST BE REPLACED BY
16 "ELIGIBLE ELECTOR"; "MUNICIPALITY" MUST BE REPLACED BY "LOCAL
17 GOVERNMENT"; AND "MUNICIPAL CLERK" OR "CLERK" MUST BE REPLACED
18 BY "DESIGNATED ELECTION OFFICIAL, OR IF NONE IS DESIGNATED, THEN
19 THE SECRETARY OF THE LOCAL GOVERNMENT";

20 (II) THE SECOND PARAGRAPH OF THE WARNING CONTAINED IN
21 SECTION 31-4-502 (1) (a) (II), C.R.S., SHALL NOT BE USED FOR A LOCAL
22 GOVERNMENT RECALL ELECTION;

23 (III) THE NUMBER OF SIGNATURES REQUIRED BY SECTION 31-4-502
24 (1) (d), C.R.S., APPLIES TO A LOCAL GOVERNMENT RECALL ELECTION ONLY
25 IF A DIFFERENT NUMBER IS NOT SPECIFIED BY THIS ARTICLE OR BY TITLE 1,
26 C.R.S.; AND

27 (IV) THE WORDS "WHO RESIDES WITHIN THE MUNICIPALITY" IN

1 31-4-503 (3) (b), C.R.S., DO NOT APPLY.

2 **SECTION 19. Applicability.** This act applies to elections
3 conducted on or after the effective date of this act.

4 **SECTION 20. Act subject to petition - effective date.** This act
5 takes effect at 12:01 a.m. on the day following the expiration of the
6 ninety-day period after final adjournment of the general assembly (August
7 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
8 referendum petition is filed pursuant to section 1 (3) of article V of the
9 state constitution against this act or an item, section, or part of this act
10 within such period, then the act, item, section, or part will not take effect
11 unless approved by the people at the general election to be held in
12 November 2016 and, in such case, will take effect on the date of the
13 official declaration of the vote thereon by the governor.