

CHAPTER 313

ELECTIONS

HOUSE BILL 16-1442

BY REPRESENTATIVE(S) Ryden, Court, Thurlow, Vigil, Lontine, Pabon, Hullinghorst;
also SENATOR(S) Ulibarri, Heath, Kefalas.

AN ACT

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

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

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

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

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

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

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 ~~following the survey of returns~~ 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

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

1-13.5-303. Candidates for special district or business improvement district director - self-nomination and acceptance form. (5) The self-nomination and

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

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

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

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 ~~shall~~ 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.

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

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.

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

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.

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

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.

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

1-13.5-902. Ballots and sample ballots - delivery - format. (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 ~~no~~ 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.

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

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

(2) (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 an official absentee voter's ballot.

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

1-13.5-1003. Application for 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.

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

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 ~~political subdivision, other than a school district,~~ LOCAL GOVERNMENT determines ~~shall~~ WILL not be coordinated by the county clerk and recorder.

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

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

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

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

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

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.

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

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. ~~The designated election official shall also file a copy in the office of the division of local government in the department of local affairs.~~

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

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 ~~or any eligible elector of the local government~~ that the causes set forth in the statement are true to the best of the affiant's knowledge and belief.

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

1-13.5-1404. Summons - answer. (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 ~~number of~~ 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.

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

32-1-906. Directors subject to recall - applicability of laws. (1) (a) Any director elected to the board of any special district who has actually held office for at least six months may be recalled from office by the eligible electors of the special district. A petition signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition shall be filed in the court. ~~Any recall shall be governed by the procedures set forth in part 5 of article 4 of title 31, C.R.S.~~

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

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

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

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

(IV) THE WORDS "WHO RESIDES WITHIN THE MUNICIPALITY" IN 31-4-503 (3) (b), C.R.S., DO NOT APPLY.

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

SECTION 20. Act subject to petition - effective date. 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 10, 2016, if adjournment sine die is on May 11, 2016); 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 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 10, 2016