

CHAPTER 261

ELECTIONS

HOUSE BILL 09-1336

BY REPRESENTATIVE(S) Todd and Murray, Apuan, Casso, Court, Green, Labuda, Looper, Priola, Schafer S.;
also SENATOR(S) Williams and Carroll M., Cadman, Kester, Spence.

AN ACT**CONCERNING THE IMPLEMENTATION OF SPECIFIC RECOMMENDATIONS OF THE STATE ELECTION REFORM COMMISSION.**

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

SECTION 1. 1-1-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(18.5) "GROUP RESIDENTIAL FACILITY" MEANS A NURSING HOME, A NURSING CARE FACILITY LICENSED PURSUANT TO PART 1 OF ARTICLE 3 OF TITLE 25, C.R.S., A HOME FOR PERSONS WITH DEVELOPMENTAL DISABILITIES AS DEFINED IN SECTION 27-10.5-102, C.R.S., AN ASSISTED LIVING RESIDENCE LICENSED PURSUANT TO SECTION 25-27-105, C.R.S., OR A RESIDENTIAL TREATMENT FACILITY FOR MENTAL ILLNESS.

SECTION 2. 1-1-104 (19.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(19.5) (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).

SECTION 3. 1-8-112 (1), Colorado Revised Statutes, is amended to read:

1-8-112. Voting at group residential facilities. (1) When more than ~~five~~ SEVEN

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

mail-in ballots are to be sent to the same group residential facility, ~~within a county, which includes, but is not limited to, nursing homes and senior citizen housing facilities~~ AS DEFINED IN SECTION 1-1-104 (18.5), 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-in ballots and return those ballots to the office of the county clerk and recorder.

SECTION 4. 1-1-109 (1), Colorado Revised Statutes, is amended, and the said 1-1-109 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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.

(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, VOTER REGISTRATION DRIVES, AND ACCEPTANCE BY ELECTION OFFICIALS AND ANY RULES NECESSARY TO ESTABLISH UNIFORMITY REGARDING THE USE OF FORMS.

SECTION 5. 1-2-204, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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

SECTION 6. 1-7.5-107.5, Colorado Revised Statutes, is amended to read:

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 ~~ten~~ 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.

SECTION 7. 1-8-103.5 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

1-8-103.5. Voting by persons residing overseas and military personnel - definitions. (2) (d) THE PROVISIONS OF SECTIONS 1-7.5-107.3 (2) (a) AND 1-8-114.5 (2) (a) PERTAINING TO SIGNATURE VERIFICATION SHALL BE EXTENDED FOR PURPOSES OF SIGNATURE COMPARISON AND VERIFICATION OF ABSENT UNIFORMED SERVICES ELECTORS SERVING OUTSIDE THE UNITED STATES WHOSE BALLOTS ARE RECEIVED NO LATER THAN THE CLOSE OF BUSINESS ON THE EIGHTH DAY FOLLOWING THE DAY OF THE ELECTION, PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (2).

SECTION 8. 1-8-113 (3) (d), Colorado Revised Statutes, is amended to read:

1-8-113. Manner of mail-in voting - first-time voters casting a mail-in ballot after having registered by mail to vote. (3) (d) Any person who desires to cast his or her ballot by mail-in ballot but does not satisfy the requirements of paragraph (b) of this subsection (3) may cast such ballot by mail. ~~and the ballot shall be treated as a provisional ballot in accordance with the requirements of article 8.5 of this title.~~ THE DESIGNATED ELECTION OFFICIAL SHALL, WITHIN THREE DAYS AFTER THE RECEIPT OF A MAIL-IN 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 A LETTER EXPLAINING THE LACK OF COMPLIANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (3). IF THE DESIGNATED ELECTION OFFICIAL RECEIVES A COPY OF IDENTIFICATION IN COMPLIANCE WITH PARAGRAPH (b) OF THIS SUBSECTION (3) WITHIN EIGHT DAYS AFTER ELECTION DAY, AND IF THE MAIL-IN BALLOT IS OTHERWISE VALID, THE MAIL-IN BALLOT SHALL BE COUNTED.

SECTION 9. 1-10-101.5, Colorado Revised Statutes, is amended to read:

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) ~~The canvass board also shall~~ 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.

SECTION 10. Part 1 of article 10 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

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.

SECTION 11. Act subject to petition - effective date. (1) Except as set forth in subsection (2), this act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 5, 2009, if adjournment sine die is on May 6, 2009); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) Section 7 of this act shall take effect either upon the applicable effective date of this act or upon the applicable effective date of House Bill 09-1205, whichever is later; except that section 7 shall only take effect if House Bill 09-1205 is enacted and becomes law.

Approved: May 15, 2009