

**First Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0608.01 Kate Meyer x4348

HOUSE BILL 17-1281

HOUSE SPONSORSHIP

Singer,

SENATE SPONSORSHIP

Kefalas,

House Committees

State, Veterans, & Military Affairs
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE OPTIONAL USE OF ALTERNATIVE VOTING METHODS**
102 **BY LOCAL GOVERNMENTS IN NONPARTISAN ELECTIONS.**

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://leg.colorado.gov>.)

"Approval voting" is a method of voting that allows an elector to cast a vote for as many of the candidates per office as the elector chooses. The winner of each office is the candidate who receives the most votes or, for elections in which multiple candidates fill open seats, the winners are those candidates, in a number equal to the number of seats being filled, attaining the greatest number of votes.

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.*

The bill authorizes cities, towns, counties, cities and counties, school districts, and special districts (collectively, "local governments") to conduct nonpartisan elections using approval voting on and after November 1, 2017. A nonpartisan election is an election in which the political party affiliations of candidates are not printed on the ballot.

The secretary of state is directed to adopt rules and provide advice to local governments regarding approval voting and to submit a report by February 15, 2020, regarding approval voting to the state, veterans, and military affairs committees of the general assembly.

County clerk and recorders may decline to coordinate an election if a local government elects to employ approval voting in the election.

The bill makes necessary modifications to current law occasioned by the use of approval voting, such as excluding approval voting from the definition of "overvote" and adjusting provisions prescribing the form of ballots and automatic recount triggers.

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

2 **SECTION 1.** In Colorado Revised Statutes, 1-1-104, **amend**
3 (23.4) as follows:

4 **1-1-104. Definitions.** As used in this code, unless the context
5 otherwise requires:

6 (23.4) "Overvote" means the selection by an elector of more
7 names than there are persons to be elected to an office or the designation
8 of more than one answer to a ballot question or ballot issue. "OVERVOTE"
9 DOES NOT INCLUDE APPROVAL VOTING, AS DEFINED IN SECTION 1-7-1102
10 (1).

11 **SECTION 2.** In Colorado Revised Statutes, 1-5-407, **amend** (2)
12 and (3) as follows:

13 **1-5-407. Form of ballots.** (2) The ballots shall be printed so as
14 to give to each eligible elector a clear opportunity to designate his or her
15 choice of candidates, joint candidates, ballot issues, and ballot questions
16 by a mark as instructed. On the ballot may be printed words that will aid
17 the elector, such as "vote for not more than one" OR, FOR AN ELECTION

1 CONDUCTED USING APPROVAL VOTING PURSUANT TO PART 11 OF ARTICLE
2 7 OF THIS TITLE 1, "VOTE FOR ONE OR MORE".

3 (3) (a) At the end of the list of candidates for each different office
4 shall be one or more blank spaces in which the elector may write the
5 name of any eligible person not printed on the ballot who has filed an
6 affidavit of intent of write-in candidate pursuant to section 1-4-1101.
7 EXCEPT AS PROVIDED IN SUBSECTION (3)(b) OF THIS SECTION, the number
8 of spaces provided ~~shall be~~ IS the lesser of the number of eligible electors
9 who have properly filed an affidavit of intent of write-in candidate
10 pursuant to section 1-4-1101 or the number of persons to be elected to the
11 office. No such blank spaces ~~shall~~ WILL be provided if no eligible elector
12 properly filed an affidavit of intent of write-in candidate.

13 (b) FOR AN ELECTION CONDUCTED USING APPROVAL VOTING
14 PURSUANT TO PART 11 OF ARTICLE 7 OF THIS TITLE 1, THE NUMBER OF
15 BLANK SPACES PROVIDED IN WHICH AN ELECTOR MAY WRITE IN THE NAME
16 OF A WRITE-IN CANDIDATE IS THE NUMBER OF ELIGIBLE ELECTORS WHO
17 PROPERLY FILED AN AFFIDAVIT OF INTENT PURSUANT TO SECTION
18 1-4-1101.

19 **SECTION 3.** In Colorado Revised Statutes, 1-7-116, **add** (6) as
20 follows:

21 **1-7-116. Coordinated elections - definition.** (6) A COUNTY
22 CLERK AND RECORDER MAY, IN HIS OR HER DISCRETION, DECLINE TO
23 COORDINATE AN ELECTION FOR A LOCAL GOVERNMENT, AS DEFINED IN
24 SECTION 1-7-1102 (2), IF THE LOCAL GOVERNMENT HAS ELECTED TO USE
25 APPROVAL VOTING PURSUANT TO PART 11 OF THIS ARTICLE 7. IF A LOCAL
26 GOVERNMENT THAT FALLS WITHIN MULTIPLE COUNTIES IS PARTICIPATING
27 IN A COORDINATED ELECTION, APPROVAL VOTING MAY BE USED ONLY IF IT

1 IS USED FOR EACH BALLOT IN A COORDINATING COUNTY.

2 SECTION 4. In Colorado Revised Statutes, **add** part 11 to article
3 7 of title 1 as follows:

4 PART 11
5 APPROVAL VOTING

6 1-7-1101. **Short title.** THE SHORT TITLE OF THIS PART 11 IS THE
7 "APPROVAL VOTING ACT".

8 1-7-1102. **Definitions.** AS USED IN THIS PART 11, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "APPROVAL VOTING" MEANS A METHOD OF VOTING IN WHICH:

11 (a) AN ELECTOR MAY CAST A VOTE FOR AS MANY OF THE
12 CANDIDATES PER OFFICE AS THE ELECTOR CHOOSES; AND

13 (b) THE WINNER OF EACH OFFICE IS THE CANDIDATE WHO RECEIVES
14 THE MOST VOTES.

15 (2) "LOCAL GOVERNMENT" MEANS A CITY, TOWN, COUNTY, CITY
16 AND COUNTY, SCHOOL DISTRICT, PUBLIC IMPROVEMENT DISTRICT CREATED
17 PURSUANT TO PART 5 OF ARTICLE 20 OF TITLE 30, OR A SPECIAL DISTRICT
18 CREATED PURSUANT TO ARTICLE 1 OF TITLE 32.

19 1-7-1103. **Approval voting authorized - when.** (1) A LOCAL
20 GOVERNMENT MAY CONDUCT AN ELECTION USING APPROVAL VOTING IF:

21 (a) THE ELECTION IN WHICH APPROVAL VOTING IS EMPLOYED IS A
22 NONPARTISAN ELECTION;

23 (b) USE OF APPROVAL VOTING IN THE LOCAL GOVERNMENT IS NOT
24 PROHIBITED BY THE CHARTER OF THE LOCAL GOVERNMENT;

25 (c) THE ELECTION IS CONDUCTED IN ACCORDANCE WITH THIS PART
26 11 AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO
27 SECTION 1-7-1105; AND

1 (d) THE ELECTION IS CONDUCTED WITH A SYSTEM OF CASTING,
2 RECORDING, AND TABULATING VOTES THAT IS CAPABLE OF CONDUCTING
3 THE ELECTION USING APPROVAL VOTING AND THAT HAS BEEN CERTIFIED
4 BY THE SECRETARY OF STATE.

5 (2) APPROVAL VOTING MAY BE UTILIZED IN ELECTIONS
6 CONDUCTED ON AND AFTER MAY 1, 2018.

7 **1-7-1104. Conduct of elections using approval voting - ballots**
8 **- information provided to electors.** (1) NOTWITHSTANDING SECTION
9 1-7-114 (3), ANY ELECTION CONTEST CONDUCTED USING APPROVAL
10 VOTING MUST ALLOW AN ELECTOR TO VOTE ON A BALLOT FOR AS MANY
11 CANDIDATES FOR EACH OFFICE AS THE ELECTOR CHOOSES, INCLUDING
12 WRITE-IN CANDIDATES WHO PROPERLY FILED AFFIDAVITS OF INTENT IN
13 ACCORDANCE WITH PART 11 OF ARTICLE 4 OF THIS TITLE 1 OR ARTICLE 10
14 OF TITLE 31, AS APPLICABLE.

15 (2) (a) IN AN ELECTION CONDUCTED USING APPROVAL VOTING IN
16 WHICH ONE CANDIDATE IS TO BE ELECTED TO AN OFFICE, THE DESIGNATED
17 ELECTION OFFICIAL SHALL DECLARE AS THE WINNER THE CANDIDATE WHO
18 RECEIVES THE GREATEST NUMBER OF VOTES.

19 (b) IN AN ELECTION CONDUCTED USING APPROVAL VOTING IN
20 WHICH MORE THAN ONE CANDIDATE IS TO BE ELECTED TO AN OFFICE IN A
21 MULTIPLE-SEAT DISTRICT OR TO A GOVERNING BODY THAT INCLUDES
22 MULTIPLE AT-LARGE SEATS, THE OFFICES ARE WON BY THOSE CANDIDATES,
23 IN A NUMBER EQUAL TO THE NUMBER OF SEATS BEING FILLED, WHO
24 RECEIVE THE GREATEST NUMBER OF VOTES.

25 (3) NOTHING IN THIS SECTION PROHIBITS A LOCAL GOVERNMENT
26 FROM IMPOSING OR ENFORCING ADDITIONAL REQUIREMENTS FOR
27 DETERMINING THE WINNER OF A LOCAL GOVERNMENT ELECTION

1 CONDUCTED USING APPROVAL VOTING.

2 **1-7-1105. Secretary of state - rules - guidance to local**
3 **governments - report - repeal.** (1) PRIOR TO APRIL 1, 2018, AND AS
4 NECESSARY THEREAFTER, THE SECRETARY OF STATE SHALL ADOPT RULES
5 IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24 ON THE CONDUCT OF
6 ELECTIONS USING APPROVAL VOTING. THE RULES SHALL PRESCRIBE THE
7 METHODS AND PROCEDURES FOR TABULATING, AUDITING, AND REPORTING
8 RESULTS IN AN ELECTION USING APPROVAL VOTING.

9 (2) UPON REQUEST, THE SECRETARY OF STATE SHALL PROVIDE
10 GUIDANCE AND ADVICE TO THE GOVERNING BODIES AND DESIGNATED
11 ELECTION OFFICIALS OF LOCAL GOVERNMENTS OF THE STATE ON THE
12 CONDUCT OF ELECTIONS USING APPROVAL VOTING.

13 (3) (a) THE SECRETARY OF STATE SHALL SUBMIT A REPORT
14 CONCERNING THE USE OF APPROVAL VOTING IN COLORADO TO THE STATE,
15 VETERANS, AND MILITARY AFFAIRS COMMITTEES, OR ANY SUCCESSOR
16 COMMITTEES, OF THE SENATE AND THE HOUSE OF REPRESENTATIVES NO
17 LATER THAN FEBRUARY 15, 2021.

18 (b) AT A MINIMUM, THE REPORT SUBMITTED UNDER THIS
19 SUBSECTION (3) MUST INCLUDE:

20 (I) AN ASSESSMENT OF ALL ELECTIONS CONDUCTED USING
21 APPROVAL VOTING FROM MAY 1, 2018, THROUGH MAY 5, 2020, BY
22 LOCAL GOVERNMENTS IN ACCORDANCE WITH THIS PART 11 AND BY HOME
23 RULE CITIES AND CITIES AND COUNTIES IN ACCORDANCE WITH THEIR
24 CHARTERS;

25 (II) ANY INPUT OR RECOMMENDATIONS MADE BY THE DESIGNATED
26 ELECTION OFFICIALS OF LOCAL GOVERNMENTS THAT CONDUCTED AN
27 ELECTION USING APPROVAL VOTING FROM MAY 1, 2018, THROUGH MAY

1 5, 2020; AND

2 (III) THE SECRETARY OF STATE'S RECOMMENDATIONS FOR
3 CHANGES TO STATUTES, RULES, AND LOCAL VOTING PROCEDURES THAT
4 WOULD BE REQUIRED TO IMPLEMENT APPROVAL VOTING AS A PERMANENT
5 ALTERNATIVE ELECTION METHOD FOR REGULAR AND SPECIAL FEDERAL,
6 STATE, AND LOCAL ELECTIONS.

7 (c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE JULY 1, 2021.

8

9 **SECTION 5.** In Colorado Revised Statutes, 22-31-103, **amend**
10 (1) as follows:

11 **22-31-103. Board of education to govern conduct of school**
12 **elections - contract with county clerk and recorder - approval voting**
13 **authorized - definition.** (1) (a) Except as otherwise provided in this
14 ~~article~~ ARTICLE 31, the board of education of each school district shall
15 govern the conduct of all school elections in the district, shall designate
16 an election official who ~~shall be~~ IS responsible for conducting the
17 election, and shall render all interpretations and make all initial decisions
18 as to controversies or other matters arising in the conduct of such
19 elections. All elections authorized in this ~~article~~ ARTICLE 31 shall be
20 conducted pursuant to ~~the provisions of~~ articles 1 to 13 of title 1. ~~C.R.S.~~

21 (b) A BOARD OF EDUCATION OF A SCHOOL DISTRICT MAY USE
22 APPROVAL VOTING TO CONDUCT A REGULAR BIENNIAL SCHOOL ELECTION
23 TO ELECT SCHOOL DIRECTORS OF THE DISTRICT IN ACCORDANCE WITH
24 SECTION 1-7-1103 AND THE RULES ADOPTED BY THE SECRETARY OF STATE
25 PURSUANT TO SECTION 1-7-1105 (1). AS USED IN THIS SUBSECTION (1),
26 "APPROVAL VOTING" HAS THE SAME MEANING AS SET FORTH IN SECTION
27 1-7-1102 (1).

1 **SECTION 6.** In Colorado Revised Statutes, **add** 31-10-618 as
2 follows:

3 **31-10-618. Approval voting authorized - definition.**

4 (1) (a) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 10 TO THE
5 CONTRARY, A MUNICIPALITY MAY USE APPROVAL VOTING TO CONDUCT A
6 REGULAR ELECTION TO ELECT THE MAYOR OR MEMBERS OF THE
7 GOVERNING BODY OF THE MUNICIPALITY IF THE MUNICIPALITY PASSES AN
8 ORDINANCE OR RESOLUTION ALLOWING APPROVAL VOTING AND IF THE
9 ELECTION IS CONDUCTED IN ACCORDANCE WITH SECTION 1-7-1103 AND
10 THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO SECTION
11 1-7-1105 (1).

12 (b) NOTWITHSTANDING SECTION 31-10-612, A BALLOT CAST IN AN
13 ELECTION CONDUCTED UNDER THIS ARTICLE 10 USING APPROVAL VOTING
14 IS NOT DEFECTIVE SOLELY BECAUSE AN ELECTOR VOTES FOR MORE NAMES
15 THAN THERE ARE PERSONS TO BE ELECTED TO A PARTICULAR OFFICE.

16 (2) A MUNICIPALITY CONDUCTING AN ELECTION USING APPROVAL
17 VOTING MAY ADAPT THE REQUIREMENTS OF THIS ARTICLE 10, INCLUDING
18 REQUIREMENTS CONCERNING THE FORM OF THE BALLOT, THE METHOD OF
19 MARKING THE BALLOT, THE PROCEDURE FOR COUNTING BALLOTS, AND THE
20 FORM OF THE ELECTION JUDGES' CERTIFICATE, AS NECESSARY FOR
21 COMPATIBILITY WITH APPROVAL VOTING.

22 (3) AS USED IN THIS SECTION, "APPROVAL VOTING" HAS THE
23 MEANING SET FORTH IN SECTION 1-7-1102 (1).

24 **SECTION 7.** In Colorado Revised Statutes, **add** 32-1-805.7 as
25 follows:

26 **32-1-805.7. Approval voting authorized - definition.**

27 (1) NOTWITHSTANDING ANY PROVISION OF THIS PART 8 TO THE

1 CONTRARY, A SPECIAL DISTRICT MAY USE APPROVAL VOTING TO CONDUCT
2 A REGULAR ELECTION TO ELECT DIRECTORS OF THE SPECIAL DISTRICT IN
3 ACCORDANCE WITH SECTION 1-7-1103 AND THE RULES ADOPTED BY THE
4 SECRETARY OF STATE PURSUANT TO SECTION 1-7-1105 (1).

5 (2) A SPECIAL DISTRICT CONDUCTING AN ELECTION USING
6 APPROVAL VOTING MAY ADAPT THE REQUIREMENTS OF THIS PART 8 AND
7 PART 11 OF ARTICLE 7 OF TITLE 1, INCLUDING REQUIREMENTS CONCERNING
8 THE FORM OF THE BALLOT, THE METHOD OF MARKING THE BALLOT, THE
9 PROCEDURE FOR COUNTING BALLOTS, AND THE FORM OF THE ELECTION
10 JUDGES' CERTIFICATE, AS NECESSARY FOR COMPATIBILITY WITH APPROVAL
11 VOTING.

12 (3) AS USED IN THIS SECTION, "APPROVAL VOTING" HAS THE
13 MEANING SET FORTH IN SECTION 1-7-1102 (1).

14 **SECTION 8. Applicability.** This act applies to elections
15 conducted on or after May 1, 2018.

16 **SECTION 9. Act subject to petition - effective date.** This act
17 takes effect at 12:01 a.m. on the day following the expiration of the
18 ninety-day period after final adjournment of the general assembly (August
19 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
20 referendum petition is filed pursuant to section 1 (3) of article V of the
21 state constitution against this act or an item, section, or part of this act
22 within such period, then the act, item, section, or part will not take effect
23 unless approved by the people at the general election to be held in
24 November 2018 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.