

CHAPTER 288

**GOVERNMENT - MUNICIPAL**

HOUSE BILL 93-1063

BY REPRESENTATIVES Duke and Sullivan;  
also SENATOR Owens.

**AN ACT**

**CONCERNING AMENDMENTS TO THE COLORADO MUNICIPAL ELECTION CODE.**

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

**SECTION 1.** 31-10-102.7, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-10-102.7. Applicability of the "Uniform Election Code of 1992".** Any municipality may provide by ordinance OR RESOLUTION that it will utilize the requirements and procedures of the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., in lieu of this article, with respect to any regular election. ~~or any special election designated pursuant to section 31-10-108.~~

**SECTION 2.** 31-10-106, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-106. Copies of election laws and manual provided.** At least thirty days before any regular election, the secretary of state shall PROVIDE EACH MUNICIPAL CLERK A COPY OF THE MUNICIPAL ELECTION LAWS OF THE STATE. THE SECRETARY OF STATE SHALL ALSO prepare and transmit a sufficient number of copies of the ~~municipal election laws of the state and~~ of a simplified manual of election procedures WHICH INCLUDES PERTINENT SECTIONS OF THE MUNICIPAL ELECTION LAWS to the clerk of each municipality to be distributed to the ELECTION judges ~~of election~~ in each municipal election precinct. ~~Each set of judges shall receive at least one copy of the municipal election laws, and~~ Each judge shall receive at least one copy of the simplified manual.

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

**SECTION 3.** 31-10-208, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-10-208. Change of address.** For the twenty-four days before and on the day of any municipal election, any registered elector, by appearing in person at the office of the county clerk and recorder, may complete a sworn affidavit for change of address within the ~~municipality~~ COUNTY in which ~~he~~ THE ELECTOR is registered, stating that ~~he~~ THE ELECTOR has moved prior to the twenty-fifth day before the election and that ~~he~~ THE ELECTOR has lived at the new address in the new precinct WITHIN THE MUNICIPALITY for at least twenty-five days. Upon the receipt of ~~such~~ THE request, the county clerk and recorder shall verify the registration of ~~such~~ THE elector and shall, UPON VERIFICATION, issue or authorize a certificate of registration, showing the information required in section ~~1-2-214~~ 1-2-215, C.R.S., plus the change of address. ~~upon such verification.~~ The judges shall allow the registered elector to vote in the precinct where the new address is located. The judges of election shall use the certificate of registration as a substitute registration page, entering the date of the election and pollbook ballot number on the certificate and including it with the registration book when it is returned to the clerk following the election.

**SECTION 4.** 31-10-302 (1) and (6), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

**31-10-302. Nomination of municipal officers.** (1) Candidates for municipal offices shall be nominated, without regard to political party affiliation, by petition on forms supplied by the clerk. A petition of nomination may consist of one or more sheets, but it shall contain the name and address of only one candidate AND SHALL INDICATE THE OFFICE TO WHICH THE CANDIDATE IS SEEKING ELECTION. The petition may designate one or more persons as a committee to fill a vacancy in ~~such~~ THE nomination.

(6) Each nomination petition shall be filed with the clerk no later than the thirtieth day prior to the day of election. Every ~~such~~ petition shall have endorsed thereon or appended thereto the written affidavit of the candidate accepting ~~such~~ THE nomination AND SWEARING THAT THE CANDIDATE SATISFIES THE REQUIREMENTS SET FORTH IN SECTION 31-10-301 TO BE A CANDIDATE AND HOLD OFFICE IN THE MUNICIPALITY. The acceptance of nomination shall contain the place of residence of the candidate and the name of the candidate in the form that ~~he~~ THE CANDIDATE wishes it to appear on the ballot. The candidate's name may be a nickname or include a nickname but shall not contain any title or degree designating the business or profession of the candidate.

**SECTION 5.** 31-10-305, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-305. Objections to nominations.** All petitions of nomination AND AFFIDAVITS which are in apparent conformity with the provisions of section 31-10-302, as determined by the clerk, are valid unless objection thereto is duly made in writing within three days after the filing of the same. In case objection is made, notice thereof shall be forthwith mailed to any candidate who may be affected thereby. ~~Said~~ THE clerk shall decide objections within at least forty-eight hours after the same are filed, and any objections sustained may be remedied or defect cured

upon the original petition, by an amendment thereto, or by filing a new petition within three days after ~~such~~ THE objection is sustained, but in no event later than the eighteenth day before the day of election. The clerk shall pass upon the validity of all objections, whether of form or substance, and ~~his~~ THE CLERK'S decisions upon matters of form shall be final. ~~His~~ THE CLERK'S decisions upon matters of substance shall be open to review if prompt application is made, as provided in section 31-10-1401, but the remedy in all cases shall be summary, and the decision of the district court shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any ~~such~~ proceeding in a summary way.

**SECTION 6.** 31-10-405, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-405. Vacancies.** If for any reason any person appointed as a judge of election refuses, fails, or is unable to serve, it is the duty of ~~such~~ THE person or any other judge of election to immediately notify the clerk. The clerk shall forthwith appoint another QUALIFIED person ~~in such precinct~~ to serve in the place of ~~such~~ THE person. ~~If no person in the precinct is available to fill the vacancy, the clerk shall appoint any registered elector of the municipality.~~

**SECTION 7.** 31-10-407 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-407. Oath of judges.** (1) Before any votes are taken at any municipal election, the judges of election shall severally take an oath or affirmation in the following form:

"I, ....., do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am a registered elector in ~~municipal precinct.... in the municipality of .....~~; COLORADO; that I will perform the duties of judge according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same; that I will not try to ascertain how any elector voted, nor will I disclose how any elector voted if, in the discharge of my duties as judge, such knowledge shall come to me, unless called upon to disclose the same before some court; and that I will not disclose the result of the votes until the polls have closed."

**SECTION 8.** 31-10-703 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-703. Sample ballots, ballot labels, and cards of instruction.** (2) The clerk shall also prepare and place on each voting machine to be used in election precincts under ~~his~~ THE CLERK'S supervision a set of official ballot labels arranged in the manner prescribed for the official election ballot to be used on voting machines. When there is more than one person to be elected to an office, there shall be provided two, and only two, spaces for write-in purposes for each different office. No cross mark (X) shall be required opposite the name of a write-in candidate. CANDIDATE NAMES SHALL BE ARRANGED BY LOT AS PRESCRIBED BY THE MUNICIPAL CLERK UNDER THE DESIGNATION OF THE OFFICE. The clerk shall deliver the required number of voting machines, equipped with the official ballot, to each election precinct no later

than the day prior to the day of election.

**SECTION 9.** 31-10-902 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-902. Ballots.** (2) Every ballot shall contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn, and the ballot shall contain no other names. The names of the candidates for each office shall be printed upon the ballot without political party designation and without any title or degree designating the business or profession of the candidate. The names shall be arranged ~~alphabetically~~ BY LOT AS PRESCRIBED BY THE MUNICIPAL CLERK under the designation of the office. ~~, according to surname.~~

**SECTION 10.** 31-10-1001, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-10-1001. When absent electors may vote.** ~~When~~ Any registered elector of a municipality ~~on the day of any regular or special election held pursuant to law, is absent from his municipality, or by reason of his work or the nature of his employment is likely to be absent and fears that he will be absent from his municipality on said day, or because of serious illness, handicap, or advanced age, or for reasons based upon the doctrines of established religions is unable to attend the polls, he may cast his~~ A ballot at ~~such~~ THE election in the manner provided in sections 31-10-1001 to 31-10-1007.

**SECTION 11.** 31-10-1002 (1) and (2), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

**31-10-1002. Application for absentee ballot - delivery - list.** (1) Requests for an application for an absentee voter's ballot may be made orally or in writing. Applications for absent voters' ballots shall be filed in writing with the clerk not earlier than ninety days before and not later than the close of business on the Friday immediately preceding ~~such~~ THE regular or special election. The application may be in the form of a letter. ~~stating the applicant's residence address and that he will be absent from the municipality on the day of said regular or special election, or that his work or employment, stating the nature thereof, is such that he is likely to be absent and fears that he will be absent from the municipality on said day, or that on account of serious illness, handicap, or advanced age, he is unable to attend the polls, or that for reasons based upon the doctrines of the established religion of which such applicant is a member he shall be unable to attend the polls.~~

(2) Upon receipt of an application for an absent voter's ballot within the proper time, the clerk receiving it shall examine the records of the county clerk and recorder to ascertain whether or not ~~such~~ THE applicant is registered and lawfully entitled to vote as requested, and, if found to be so, ~~he~~ THE CLERK shall deliver, as soon as practicable, but not more than seventy-two hours after the ballots have been ~~printed~~ RECEIVED, to the applicant personally in the clerk's office or by mail to the mailing address given in the application an official absent voter's ballot, an identification return envelope with the affidavit thereon properly filled in as to precinct and residence address as shown by the records of the county clerk and recorder, and an instruction card.

**SECTION 12.** 31-10-1004 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

**31-10-1004. Manner of absentee voting by paper ballot.** (1) Any registered elector applying for and receiving an absent voter's ballot, in casting ~~such~~ THE ballot, shall make and subscribe to the self-affirmation on the return identification envelope. The voter shall ~~thereupon~~ THEN mark the ballot. The voter shall fold the ballot so as to conceal the marking, deposit it in the return envelope, and seal the envelope securely. The envelope may be delivered personally or mailed by the voter to the clerk issuing the ballot. It is permissible for a voter to deliver the ballot to any person of ~~his~~ THE VOTER'S own choice or to any duly authorized agent of the clerk for mailing or personal delivery to the clerk. All ~~such~~ envelopes containing absent voters' ballots shall be in the hands of the clerk not later than the hour of ~~5 p.m.~~ 7 p.m. on the day of election.

**SECTION 13.** 31-10-1006, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-1006. Delivery to judges.** Not later than 8:30 a.m. on the day of any municipal election, the clerk shall deliver to the judges of one of the precincts of the municipality, which precinct shall be selected by the clerk, all the absent voters' envelopes received up to that time, in sealed packages, taking a receipt ~~therefor~~ FOR THE PACKAGES, together with the list of absent voters, or, in ~~his~~ THE CLERK'S discretion, the clerk may elect to deliver the absent voters' envelopes received from electors of each precinct and the list of absent voters for each precinct to the judges of ~~such~~ THE precinct. The clerk shall continue to deliver any ~~such~~ envelopes which may be received thereafter during said day UP to and including ~~5 p.m.~~ 7 p.m. On ~~such~~ THE SEALED packages shall be printed or written, "This package contains ....(number) absent voters' ballots." With ~~such~~ THE envelopes the clerk shall deliver to one of the election judges written instructions, which shall be followed by the judges of election in casting and counting ~~such~~ THE ballots, and all ~~such~~ THE books, records, and supplies as are needed for tabulating, recording, and certifying said absent voters' ballots.

**SECTION 14.** 31-10-1008 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-1008. Challenge of absentee ballots - rejection - record.** (2) All absent voters' identification envelopes, ballot stubs, and absent voters' ballots rejected by the judges of election in accordance with the provisions of this section shall be returned to the clerk. All absent voters' ballots received by the clerk after ~~5 p.m.~~ 7 p.m. the day of the election, together with those rejected and returned by the judges of election, as provided in this section, shall remain in the sealed identification envelopes and be destroyed later, as provided in section 31-10-616.

**SECTION 15.** 31-10-1010 (1) (b), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-1010. Emergency absentee voting.** (1) (b) A request for an emergency absent voter's ballot under this section shall be made before, and the ballot shall be returned to the clerk's office no later than, ~~5 p.m.~~ 7 p.m. on election day.

**SECTION 16.** 31-10-1201, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

**31-10-1201. Returns - canvass.** The returns of all municipal elections shall be made to the clerk of the municipality. ~~He~~ THE CLERK shall ~~call to his~~ REQUEST THE assistance OF the mayor of the municipality IN CONDUCTING THE CANVASS OF VOTES. If there is no mayor or if the mayor has been a candidate at ~~such~~ THE election, the clerk shall appoint a municipal judge, A MEMBER OF THE ELECTION COMMISSION, OR A PERSON WHO IS QUALIFIED TO BE AN ELECTION JUDGE AND WHO DID NOT SERVE AS AN ELECTION JUDGE IN THE ELECTION AS AN ASSISTANT. No later than seven days after the election, the clerk, in the presence of ~~his~~ THE assistant, shall open the returns and make out abstracts of votes for each office.

**SECTION 17.** 31-10-1205, Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**31-10-1205. Statement - certificates of election.** (1.5) IN ANY ELECTION IN A MUNICIPALITY THAT UTILIZES FOUR-YEAR OVERLAPPING TERMS OF OFFICE FOR MEMBERS OF THE GOVERNING BODY AS PROVIDED IN SECTION 31-4-301 (5), ANY AVAILABLE FOUR-YEAR TERMS OF OFFICE SHALL BE AWARDED TO THE CANDIDATE OR THE CANDIDATES RECEIVING THE HIGHEST NUMBER OF VOTES. THE TERM OF OFFICE OF THE CANDIDATE OR CANDIDATES RECEIVING THE NEXT HIGHEST VOTE TOTAL OR TOTALS SHALL BE SHORTENED AS PROVIDED IN SECTION 31-4-301 (5).

**SECTION 18.** Part 12 of article 10 of title 31, Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**31-10-1207. Recount.** (1) IF IT APPEARS THAT ANY CANDIDATE FAILED TO BE ELECTED OR ANY BALLOT ISSUE FAILED TO PASS BY A MARGIN OF ONE PERCENT OR LESS OF THE NUMBER OF VOTES CAST IN OPPOSITION TO THE BALLOT ISSUE OR FOR THE CANDIDATE WHO WAS DECLARED ELECTED TO THE OFFICE SOUGHT AND WHO RECEIVED THE NEXT GREATER NUMBER OF VOTES, THE LOSING CANDIDATE OR THE SUPPORTERS OF THE LOSING QUESTION MAY SUBMIT A CERTIFIED WRITTEN REQUEST FOR A RECOUNT WITH THE CLERK WITHIN TEN DAYS AFTER THE ELECTION. UNLESS OTHERWISE PROVIDED BY ORDINANCE, THE COST OF THE RECOUNT SHALL BE PAID BY THE MUNICIPALITY. IF THE ORDINANCE REQUIRES PAYMENT OF THE COST BY THE REQUESTING PARTY, THE CLERK SHALL DETERMINE THE COST THEREOF AND NOTIFY THE REQUESTING PARTY PRIOR TO CONDUCTING THE RECOUNT.

(2) IF IT APPEARS THAT ANY CANDIDATE FAILED TO BE ELECTED OR ANY BALLOT ISSUE FAILED TO PASS BY A MARGIN OF MORE THAN ONE PERCENT OF THE NUMBER OF VOTES CAST IN OPPOSITION TO THE BALLOT ISSUE OR FOR THE CANDIDATE WHO WAS DECLARED ELECTED TO THE OFFICE SOUGHT AND WHO RECEIVED THE NEXT GREATER NUMBER OF VOTES, THE LOSING CANDIDATE OR THE SUPPORTERS OF THE LOSING QUESTION MAY SUBMIT A CERTIFIED WRITTEN REQUEST FOR A RECOUNT AT THE EXPENSE OF THE PERSON OR GROUP MAKING THE REQUEST. THIS REQUEST SHALL BE FILED WITH THE CLERK WITHIN TEN DAYS AFTER THE ELECTION. BEFORE CONDUCTING THE RECOUNT, THE CLERK SHALL DETERMINE THE COST THEREOF AND NOTIFY THE REQUESTING PERSON OR PERSONS. THE PERSON OR PERSONS SHALL PAY ON DEMAND THE COST OF THE RECOUNT TO THE CLERK. IF, AFTER THE RECOUNT, THE CANDIDATE WHO REQUESTED THE RECOUNT IS DECLARED THE WINNER OF THE ELECTION, OR THE

BALLOT ISSUE IS DECLARED PASSED, REGARDLESS OF THE MARGIN OF VICTORY, THE PAYMENT FOR EXPENSES SHALL BE REFUNDED TO THE PERSON OR GROUP WHO PAID THEM.

(3) THE CLERK SHALL BE RESPONSIBLE FOR CONDUCTING THE RECOUNT AND SHALL BE ASSISTED BY THOSE PERSONS WHO ASSISTED IN PREPARING THE OFFICIAL ABSTRACT OF VOTES. IF THE PERSON CANNOT PARTICIPATE IN THE RECOUNT, ANOTHER PERSON SHALL BE APPOINTED AS PROVIDED IN SECTION 31-10-1201. THE CLERK MAY APPOINT ADDITIONAL PERSONS QUALIFIED TO BE THE ELECTION JUDGES WHO DID NOT SERVE AS JUDGES IN THE ELECTION AS ASSISTANTS IN CONDUCTING THE RECOUNT. PERSONS ASSISTING IN THE CONDUCT OF THE RECOUNT SHALL BE COMPENSATED AS PROVIDED IN SECTION 31-10-1206.

(4) THE CLERK MAY REQUIRE THE PRODUCTION OF ANY DOCUMENTARY EVIDENCE REGARDING THE LEGALITY OF ANY VOTE CAST OR COUNTED AND MAY CORRECT THE SURVEY OF RETURNS IN ACCORDANCE WITH THE CLERK'S FINDINGS BASED ON THE EVIDENCE PRESENTED.

(5) IN PRECINCTS USING PAPER OR ELECTRONIC BALLOTS THE RECOUNTS SHALL BE OF THE BALLOTS CAST AND THE VOTES SHALL BE TALLIED ON SHEETS OTHER THAN THOSE USED AT THE ELECTION. IN PRECINCTS USING VOTING MACHINES, THE RECOUNT SHALL BE OF THE VOTES TABULATED ON THE VOTING MACHINES AND SEPARATE TALLY SHEETS SHALL BE USED FOR EACH MACHINE.

**SECTION 19.** Part 15 of article 10 of title 31, Colorado Revised Statutes, 1986 Repl. Vol., is amended BY THE ADDITION OF A NEW SECTION to read:

**31-10-1521.5. Anonymous statements concerning candidates or issues - penalties.** ANY PERSON, AS DEFINED IN SECTION 1-45-103 (3) (a), C.R.S., WHO WILLFULLY CAUSES TO BE PUBLISHED OR PRINTED OR WHO INTENTIONALLY CAUSES TO BE DISTRIBUTED ANY CARD, PAMPHLET, CIRCULAR, POSTER, DODGER, ADVERTISING, OR OTHER WRITING RELATING TO ANY CANDIDATE FOR ELECTION TO ANY OFFICE OR RELATING TO ANY ISSUE WHICH IS TO BE SUBMITTED TO THE ELECTORS AT ANY ELECTION CONDUCTED PURSUANT TO THIS ARTICLE WHICH DOES NOT CONTAIN, CLEARLY SET APART FROM THE TEXT AND IDENTIFYING THEM AS SPONSORS, THE NAMES OF THE PERSONS, ASSOCIATIONS, COMMITTEES, OR CORPORATIONS RESPONSIBLE FOR THE PUBLICATION, PRINTING, OR DISTRIBUTION OF THE SAME AND THE NAME OF THE PRESIDENT, CHAIRMAN, OR RESPONSIBLE OFFICIAL OF EACH ASSOCIATION, COMMITTEE, OR CORPORATION IS GUILTY OF A MISDEMEANOR, AND UPON CONVICTION THEREOF, SHALL BE PUNISHED AS PROVIDED IN SECTION 31-10-1504.

**SECTION 20. Effective date.** This act shall take effect July 1, 1993.

**SECTION 21. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993