

CHAPTER 189

GOVERNMENT - MUNICIPAL

HOUSE BILL 00-1095

BY REPRESENTATIVES Berry, Bacon, Hoppe, Plant, Saliman, and Tochtrop;
also SENATOR Blickensderfer.

AN ACT

CONCERNING REVISIONS TO THE MUNICIPAL ELECTIONS LAWS.

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

SECTION 1. 1-5-208 (2), (3), (4), and (5), Colorado Revised Statutes, are amended to read:

1-5-208. Election may be canceled - when. (2) Except for initiative and recall elections, ~~if the only matter before the electors is the consideration of ballot issues or ballot questions;~~ no later than twenty-five days before an election conducted as a coordinated election in November, and at any time prior to any other elections, a governing body may by resolution ~~cancel the election~~ WITHDRAW ONE OR MORE BALLOT ISSUES OR BALLOT QUESTIONS FROM THE BALLOT. The ballot issues and ballot questions shall be deemed to have not been submitted and votes cast on the ballot issues and ballot questions shall either not be counted or shall be deemed invalid by action of the governing body.

(3) If the electors are to consider the election of persons to office and ballot issues or ballot questions, the election may be canceled by the governing body only in the event that all of the conditions of ~~both subsections (1) and (2)~~ SUBSECTION (1) of this section exist AND THAT ALL BALLOT ISSUES OR BALLOT QUESTIONS HAVE BEEN WITHDRAWN FROM THE BALLOT PURSUANT TO SUBSECTION (2) OF THIS SECTION.

(4) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, no election may be canceled in part.

(5) Unless otherwise provided by an intergovernmental agreement pursuant to section 1-7-116, upon receipt of an invoice, the governing body shall within thirty days promptly pay all costs accrued by the county clerk and recorder and any coordinating

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

political subdivision attributable to the canceled election OR WITHDRAWN BALLOT ISSUES OR BALLOT QUESTIONS.

SECTION 2. 1-45-108 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

1-45-108. Disclosure. (2)(e) THE REPORTING PERIOD FOR ALL REPORTS REQUIRED TO BE FILED WITH THE COUNTY CLERK AND RECORDER OR WITH THE MUNICIPAL CLERK SHALL CLOSE FIVE CALENDAR DAYS PRIOR TO THE EFFECTIVE DATE OF FILING.

SECTION 3. 31-1-101 (10), Colorado Revised Statutes, is amended to read:

31-1-101. Definitions. As used in this title, except where specifically defined, unless the context otherwise requires:

(10) "Regular election" means the election held in towns on the first Tuesday of April in each even-numbered year; the election held in cities on the Tuesday succeeding the first Monday of November in each odd-numbered year; and the ~~regular election of officers, and any other regularly scheduled election at which all qualified electors of a municipality may participate, in any other municipality~~ ELECTION HELD IN ANY OTHER MUNICIPALITY AT WHICH THE REGULAR ELECTION OF OFFICERS TAKES PLACE.

SECTION 4. 31-2-203, Colorado Revised Statutes, is amended to read:

31-2-203. Definitions. As used in this part 2, unless the context otherwise requires:

(1) ~~"Publication" means one publication in one newspaper of general circulation within the municipality. If there is no such newspaper, publication shall be by posting in at least three public places within the municipality.~~ "BALLOT TITLE" MEANS A BALLOT TITLE AS DEFINED IN SECTION 31-11-103 (1).

(2) "PUBLICATION" MEANS ONE PUBLICATION IN ONE NEWSPAPER OF GENERAL CIRCULATION WITHIN THE MUNICIPALITY. IF THERE IS NO SUCH NEWSPAPER, PUBLICATION SHALL BE BY POSTING IN AT LEAST THREE PUBLIC PLACES WITHIN THE MUNICIPALITY.

SECTION 5. 31-2-207, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-2-207. Charter election - notice. (1.5) THE GOVERNING BODY SHALL SET THE BALLOT TITLE FOR THE PROPOSED CHARTER WITHIN SIXTY DAYS AFTER THE DATE THAT THE PROPOSED CHARTER IS SUBMITTED PURSUANT TO SUBSECTION (1) OF THIS SECTION.

SECTION 6. 31-2-210 (1) (b) and (3), Colorado Revised Statutes, are amended to read:

31-2-210. Procedure to amend or repeal charter. (1) Proceedings to amend a home rule charter may be initiated by either of the following methods:

(b) An ordinance adopted by the governing body submitting the proposed

amendment to a vote of the registered electors of the municipality. SUCH ORDINANCE SHALL ALSO ADOPT A BALLOT TITLE FOR THE PROPOSED AMENDMENT.

(3) The clerk shall, within fifteen working days after the filing of a petition pursuant to paragraph (a) of subsection (1) of this section or paragraph (a) of subsection (2) of this section, certify to the governing body as to the validity and sufficiency of such petition. IF THE PETITION IS SUFFICIENT, THE GOVERNING BODY SHALL SET A BALLOT TITLE FOR THE PROPOSED AMENDMENT AT ITS NEXT MEETING. IF THE PETITION IS DECLARED INSUFFICIENT, SUCH PETITION MAY BE WITHDRAWN BY A MAJORITY OF THE PERSONS REPRESENTING THE REGISTERED ELECTORS WHO SIGNED SUCH PETITION, MAY BE AMENDED OR SIGNED BY ADDITIONAL REGISTERED ELECTORS OF THE MUNICIPALITY IN ACCORDANCE WITH PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION AND PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION WITHIN FIFTEEN DAYS AFTER SUCH INSUFFICIENCY IS DECLARED, AND MAY BE REFILED AS AN ORIGINAL PETITION.

SECTION 7. 31-2-220 (2) and (3), Colorado Revised Statutes, are amended, and the said 31-2-220 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-2-220. Warning on petition - signatures - affidavits - circulators. (2) Any such petition shall be signed only by registered electors by their own signatures to which shall be attached the residence addresses of such persons, including street and number, if any, city or town, and the date of signing the same. To each such petition shall be attached an affidavit of ~~some registered elector~~ THE PERSON WHO CIRCULATED THE PETITION stating the ~~elector's~~ AFFIANT'S address, that the ~~elector is a registered elector of the municipality or of the territory proposed to be incorporated~~ AFFIANT IS EIGHTEEN YEARS OF AGE OR OLDER, that the ~~elector~~ AFFIANT circulated the said petition, that each signature thereon was affixed in the ~~elector's~~ AFFIANT'S presence, that each signature thereon is the signature of the person whose name it purports to be, that to the best of the knowledge and belief of the affiant each of the persons signing said petition was at the time of signing a registered elector, and that the ~~elector~~ AFFIANT has not paid or will not in the future pay and that the ~~elector~~ AFFIANT believes that no other person has so paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix the signer's signature to such petition. No petition shall be accepted for filing that does not have attached thereto the affidavit required by this section.

(3) ~~No such petition shall be circulated by any person who is not a registered elector of the municipality or of the territory proposed to be incorporated.~~

(4) THE CLERK SHALL INSPECT TIMELY FILED PETITIONS AND ATTACHED AFFIDAVITS TO ENSURE COMPLIANCE WITH SUBSECTION (2) OF THIS SECTION. SUCH INSPECTION MAY CONSIST OF AN EXAMINATION OF THE INFORMATION ON THE SIGNATURE LINES FOR PATENT DEFECTS, A COMPARISON OF THE INFORMATION ON THE SIGNATURE LINES WITH A LIST OF REGISTERED ELECTORS PROVIDED BY THE COUNTY, OR ANY OTHER METHOD OF INSPECTION REASONABLY EXPECTED TO ENSURE COMPLIANCE WITH SUBSECTION (2) OF THIS SECTION.

SECTION 8. 31-2-223 (1), Colorado Revised Statutes, is amended to read:

31-2-223. Affidavit - evidence - protest procedure. (1) All petitions to initiate

the adoption, amendment, or repeal of a home rule charter, including the formation of a new charter commission, ~~which~~ SHALL have attached thereto an affidavit of ~~some registered elector~~ THE CIRCULATOR OF THE PETITION STATING that each signature ~~thereon~~ ON THE PETITION is the signature of the person whose name it purports to be and that to the best of the knowledge and belief of the affiant each of the persons signing such petition was at the time of signing a registered elector. ~~shall be prima facie evidence that the signatures thereon are genuine and true and that the persons signing the same are registered electors, unless~~ A protest in writing, under oath, ~~is~~ MAY BE filed in the office in which such petition has been filed by some registered elector of the municipality or territory proposed to be incorporated within thirty days after such petition is filed, setting forth with particularity the grounds of such protest and the names protested. In such event the officer with whom such petition is filed shall mail a copy of the protest to the persons named in such petition as representing the signers thereof at the addresses therein given, together with a notice fixing a time for hearing the protest not less than five nor more than twenty days after such notice is mailed. If, at such hearing, such protest is denied in whole or in part, the person filing the same, within ten days after such denial, may file an amended protest, a copy of which shall be mailed to the persons named in the petition and on which a hearing shall be held as in the case of the original protest; but no person shall be entitled to amend an amended protest.

SECTION 9. 31-4-503 (2) (c), (3) (b), and (4), Colorado Revised Statutes, are amended, and the said 31-4-503 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-4-503. Petition in sections - signing - affidavit - review - tampering with petition. (2) (c) To each such petition or section thereof shall be attached an affidavit of ~~some registered elector~~ THE PERSON WHO CIRCULATED THE PETITION stating the affiant's address, that the affiant is ~~a registered elector~~ EIGHTEEN YEARS OF AGE OR OLDER, that the affiant circulated the said petition, that the affiant made no misrepresentation of the purpose of such petition to any signer ~~thereof~~ OF THE PETITION, that each signature ~~thereon~~ ON THE PETITION was affixed in the affiant's presence, that each signature ~~thereon~~ ON THE PETITION is the signature of the person whose name it purports to be, that to the best of the knowledge and belief of the affiant each of the persons signing said petition was at the time of signing a registered elector, and that the affiant neither has paid nor shall pay and that the affiant believes that no other person has so paid or shall pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to sign such petition.

(3) (b) A protest in writing under oath may be filed in the office of the municipal clerk by some registered elector who resides in the municipality within fifteen days after such petition is filed setting forth specifically the grounds of such protest. Grounds for protest may include, but shall not be limited to, the failure of any portion of a petition or circulator affidavit or petition circulator to meet the requirements of this section. The municipal clerk shall ~~forthwith~~ mail a copy of such protest to THE OFFICER NAMED IN THE PETITION, TO the committee named in the petition as representing the signers ~~thereof~~ OF THE PETITION, and to the county clerk and recorder, together with a notice fixing a time for hearing such protest not less than five nor more than ten days after such notice is mailed. The county clerk and recorder shall, upon receipt of such notice, prepare a registration list pursuant to section 31-10-205 to be

utilized in determining whether such petition is sufficient. Every hearing shall be before the municipal clerk with whom such protest is filed, who shall serve as hearing officer unless some other person is designated by the governing body as the hearing officer, and the testimony in every such hearing shall be under oath. The hearing officer shall have the power to issue subpoenas and compel the attendance of witnesses. Such a hearing shall be summary and not subject to delay and shall be concluded within thirty days after such petition is filed. No later than five days after the conclusion of the hearing, the hearing officer shall issue a written determination of whether the petition is sufficient or not sufficient. If the hearing officer determines that a petition is not sufficient, ~~he~~ THE HEARING OFFICER shall identify those portions of the petition ~~which~~ THAT are not sufficient and the reasons ~~therefor~~ FOR THE INSUFFICIENCY. The result of such a hearing shall be forthwith certified to the committee and the officer sought to be recalled.

(4) When such recall petition is determined sufficient, the municipal clerk shall ~~forthwith~~ submit said petition, together with a certificate of its sufficiency, to the governing body of such municipality at the first meeting of such body following expiration of the period within which a protest may be filed or at the first meeting of such body following the determination of a hearing officer that a petition is sufficient, whichever is later. ~~If the officer sought to be recalled does not resign within five days after the clerk determines the petition to be sufficient,~~ The governing body shall thereupon order and fix a date for the recall election to be held not less than thirty days nor more than ninety days from the date of submission of the petition TO THE GOVERNING BODY BY THE MUNICIPAL CLERK; but, if a regular election is to be held within ninety days after the date of submission of said petition, the recall election shall be held as a part of said regular election; except that, if the officer sought to be recalled is seeking reelection at said regular election, only the question of such officer's reelection shall appear on the ballot. If a successor to the officer sought to be recalled is to be selected at such regular election and the officer sought to be recalled is not seeking reelection, the question of such officer's recall shall not appear on the ballot of such regular election.

(4.5) A RECALL ELECTION PURSUANT TO THIS PART 5 MAY ONLY BE CONDUCTED AS PART OF A COORDINATED ELECTION IF THE CONTENT OF THE RECALLED ELECTION BALLOT IS FINALLY DETERMINED BY THE DATE FOR CERTIFICATION OF THE BALLOT CONTENT FOR THE COORDINATED ELECTION TO THE COUNTY CLERK PURSUANT TO SECTION 1-5-203 (3), C.R.S.

SECTION 10. 31-4-504 (1) and (2), Colorado Revised Statutes, are amended, and the said 31-4-504 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

31-4-504. Resignation - vacancy filled - election - ballot - nomination. (1) ~~If an ANY officer resigns at any time before the calling of the recall election by the governing body~~ BY SUBMITTING A WRITTEN LETTER OF RESIGNATION TO THE CLERK AT ANY TIME PRIOR TO THE RECALL ELECTION, all recall proceedings shall be terminated, and the vacancy caused by such resignation shall be filled as provided by law. IF THE RESIGNATION OCCURS AFTER THE BALLOTS HAVE BEEN PREPARED OR AT A TIME WHEN IT WOULD OTHERWISE BE IMPRACTICABLE TO REMOVE THE RECALL QUESTION FROM THE BALLOT, NO VOTES CAST ON THE RECALL QUESTION SHALL BE COUNTED.

(2) ~~If such officer resigns after the calling of the recall election by the governing body, the vacancy caused by such resignation or from any other cause shall be filled as provided by law, but the person appointed to fill such vacancy shall hold his office only until the person elected at the recall election complies with section 31-4-401. Except as provided in section 31-4-503 (4), if such officer does not resign within five days after the calling of the recall election by the governing body, the governing body shall cause notice to be published for the holding of such election, and the same~~ AT LEAST TEN DAYS BEFORE THE RECALL ELECTION, THE CLERK SHALL GIVE NOTICE OF THE ELECTION IN ACCORDANCE WITH SECTION 31-10-501. EXCEPT AS OTHERWISE PROVIDED IN THIS PART 5, THE RECALL ELECTION shall be conducted and returned and the result ~~thereof~~ OF SUCH ELECTION declared in all respects as in the case of regular elections.

(8) MANDATORY OR OPTIONAL RECOUNTS OF BALLOTS CAST IN A RECALL ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH SECTION 31-10-1207.

SECTION 11. 31-4-504 (5) (c), Colorado Revised Statutes, is amended to read:

31-4-504. Resignation - vacancy filled - election - ballot - nomination.

(5) (c) The absentee polling place in the office of the municipal clerk shall be open during regular business hours between the tenth and fifth ~~business days~~ DAY preceding the recall election.

SECTION 12. 31-4-505 (1), Colorado Revised Statutes, is amended to read:

31-4-505. Recall after six months - second petition. (1) No recall petition shall be circulated or ~~signed~~ FILED AND NO PENDING RECALL PROCEEDINGS SHALL BE CONTINUED against any officer until ~~he~~ THE OFFICER has actually held ~~his~~ THE office for at least six months ~~unless he holds his office by virtue of appointment to fill a vacancy~~ FOLLOWING THE OFFICER'S ELECTION OR REELECTION.

SECTION 13. Part 5 of article 4 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-4-506. Disclosure of contributions, contributions in kind, and expenditures. NOTWITHSTANDING THE PROVISIONS OF SECTION 1-45-108 (6), C.R.S., ANY OFFICER AGAINST WHOM A RECALL PETITION HAS BEEN FILED PURSUANT TO THIS PART 5 AND ANY CANDIDATE WHO SUBMITS NOMINATING PETITIONS PURSUANT TO SECTION 31-4-504 (4) SHALL REPORT CONTRIBUTIONS, CONTRIBUTIONS IN KIND, AND EXPENDITURES MADE IN SUPPORT OF THE OFFICER'S RETENTION IN OFFICE OR THE CANDIDATE'S ELECTION TO OFFICE IN THE MANNER REQUIRED FOR CANDIDATE ELECTIONS PURSUANT TO THE "FAIR CAMPAIGN PRACTICES ACT", ARTICLE 45 OF TITLE 1, C.R.S.

SECTION 14. Part 5 of article 4 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-4-507. Powers of clerk and deputy. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE CLERK SHALL RENDER ALL INTERPRETATIONS AND SHALL MAKE ALL INITIAL DECISIONS AS TO CONTROVERSIES OR OTHER MATTERS ARISING IN THE OPERATION OF THIS ARTICLE.

(2) ALL POWERS AND AUTHORITY GRANTED TO THE CLERK BY THIS ARTICLE MAY BE EXERCISED BY A DEPUTY CLERK IN THE ABSENCE OF THE CLERK OR IN THE EVENT THE CLERK FOR ANY REASON IS UNABLE TO PERFORM THE DUTIES OF THE CLERK'S OFFICE.

SECTION 15. 31-10-108, Colorado Revised Statutes, is amended to read:

31-10-108. Special elections. Special elections shall be held on any Tuesday designated by ORDINANCE OR RESOLUTION OF the governing body. No special election shall be held within the ninety days preceding a regular election. No special election shall be called within thirty days before the date thereof, nor shall any special election be held within the thirty-two days before or after the date of a primary, general, or congressional vacancy election. A special election may be held at the same time and place as a primary, congressional vacancy or general election as a coordinated election pursuant to section 1-7-116, C.R.S., or may be conducted at the same time as a mail ballot election pursuant to part 1 of article 7.5 of title 1, C.R.S. Special elections shall be conducted as nearly as practicable in the same manner as regular elections.

SECTION 16. 31-10-302 (3), (4), (5), and (8), Colorado Revised Statutes, are amended to read:

31-10-302. Nomination of municipal officers. (3) Each registered elector signing a petition shall SIGN SUCH REGISTERED ELECTOR'S OWN SIGNATURE AND SHALL print or, if such elector is unable to do so, shall cause to be printed such elector's legal name, ~~and place of residence~~ THE ADDRESS AT WHICH SUCH REGISTERED ELECTOR RESIDES, INCLUDING THE STREET NAME AND NUMBER, THE CITY OR TOWN, THE COUNTY, AND THE DATE OF THE SIGNING. THE REGISTERED ELECTOR, OR THE PERSON PRINTING ON BEHALF OF THE REGISTERED ELECTOR, MAY USE ANY ABBREVIATIONS THAT REASONABLY IDENTIFY THE RESIDENCE OF THE REGISTERED ELECTOR, AND THE DATE THE REGISTERED ELECTOR SIGNED THE PETITION. The circulator of each nomination petition shall make an affidavit that each signature thereon is the signature of the person whose name it purports to be and that each signer has stated to the circulator that ~~he~~ THE SIGNER is a registered elector of the municipality or municipality and ward, as the case may be, for which the nomination is made. The signature of each signer of a petition shall constitute prima facie evidence of his qualifications without the requirement that each signer make an affidavit as to his qualifications.

(4) No petition is valid that does not contain the requisite number of signatures of registered electors. THE CLERK SHALL INSPECT TIMELY FILED PETITIONS OF NOMINATION TO ENSURE COMPLIANCE WITH THIS SECTION. SUCH INSPECTION MAY CONSIST OF AN EXAMINATION OF THE INFORMATION ON THE SIGNATURE LINES FOR PATENT DEFECTS, A COMPARISON OF THE INFORMATION ON THE SIGNATURE LINES WITH A LIST OF REGISTERED ELECTORS PROVIDED BY THE COUNTY, OR ANY OTHER METHOD OF INSPECTION REASONABLY EXPECTED TO ENSURE COMPLIANCE WITH THIS SECTION. Any petition may be amended to correct or replace those signatures which the clerk finds are not in apparent conformity with the requirements of this section at any time prior to twenty-two days before the day of election.

(5) No registered elector shall sign more than one nomination petition for each separate office to be filled in his municipality or municipality and ward, as the case may be. Each office of the governing body that is to be filled by the electorate shall be

considered a separate office for the purpose of nomination. In municipalities in which offices of the governing body are filled both by election from wards and election at large, an elector may sign a nomination petition for each office to be filled from his ward and also for each office to be filled by election at large. IF A REGISTERED ELECTOR'S SIGNATURE APPEARS ON MORE THAN ONE NOMINATION PETITION FOR A PARTICULAR OFFICE, THE CLERK MAY UTILIZE THE DATE OF SIGNING INDICATED ON THE NOMINATION PETITIONS TO DETERMINE WHICH SIGNATURE WAS VALID WHEN AFFIXED TO THE NOMINATION PETITIONS. IF THE DATE OF SIGNING DOES NOT CLARIFY WHICH SIGNATURE WAS VALID, ALL SIGNATURES OF SUCH REGISTERED ELECTOR SHALL BE REJECTED.

(8) Nomination petitions for candidates whose name will be on the ballot at a coordinated election or mail ballot election pursuant to articles 1 to 13 of title 1, C.R.S., shall be circulated, signed, and filed with the municipal clerk within the period set forth in section 1-4-805, C.R.S. ~~The petition may be amended to correct or replace signatures that the clerk finds are not in apparent conformity with the requirements of the municipal election code at any time prior to the sixty-sixth day prior to the election.~~

SECTION 17. 31-10-401, Colorado Revised Statutes, is amended to read:

31-10-401. Appointment of election judges. At least fifteen days before each municipal election, the governing body shall appoint the judges of election. Each judge of election shall be ~~a registered~~ AN ELECTOR REGISTERED TO VOTE IN COLORADO and shall be at least eighteen years of age. The clerk shall make and file in his office a list of all persons so appointed, giving their names, addresses, and precincts. Such list shall be a public record and shall be subject to inspection and examination during office hours by any qualified elector of the municipality with the right to make copies thereof. The governing body may by resolution delegate to the clerk the authority and responsibility to appoint judges of election.

SECTION 18. 31-10-1002 (1), Colorado Revised Statutes, is 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 AND SHALL BE PERSONALLY SIGNED BY THE APPLICANT OR A FAMILY MEMBER RELATED BY BLOOD OR MARRIAGE TO THE APPLICANT. IF THE APPLICANT IS UNABLE TO SIGN THE APPLICATION, THE APPLICANT SHALL MAKE SUCH APPLICANT'S MARK ON THE APPLICATION, WHICH SHALL BE WITNESSED BY ANOTHER PERSON. SUCH APPLICATION SHALL BE FILED with the clerk not earlier than ninety days before and not later than the close of business on the Friday immediately preceding such regular or special election. The application may be in the form of a letter.

SECTION 19. 31-10-1207 (1) and (2), Colorado Revised Statutes, are amended, and the said 31-10-1207 is further amended BY THE ADDITION OF A NEW SUBSECTION, 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.~~ THE MUNICIPAL CLERK SHALL CONDUCT A RECOUNT OF THE VOTES CAST IN ANY ELECTION IF IT APPEARS, AS EVIDENCED BY THE SURVEY OF RETURNS, THAT THE DIFFERENCE BETWEEN THE HIGHEST NUMBER OF VOTES CAST IN THE ELECTION AND THE NEXT HIGHEST NUMBER OF VOTES CAST IN THE ELECTION IS LESS THAN OR EQUAL TO ONE-HALF OF ONE PERCENT OF THE HIGHEST NUMBER OF VOTES CAST IN THE ELECTION. ANY RECOUNT CONDUCTED PURSUANT TO THIS SUBSECTION (1) SHALL BE COMPLETED NO LATER THAN THE TENTH DAY FOLLOWING THE ELECTION AND SHALL BE PAID FOR BY THE GOVERNING BODY. THE CLERK SHALL GIVE NOTICE OF THE RECOUNT TO ALL CANDIDATES AND, IN THE CASE OF A BALLOT ISSUE OR QUESTION, TO ANY PETITION REPRESENTATIVES IDENTIFIED PURSUANT TO SECTIONS 31-2-221 (1), 31-4-502 (1) (a) (I), AND 31-11-106 (2) THAT ARE AFFECTED BY THE RESULT OF THE ELECTION. SUCH NOTICE SHALL BE GIVEN BY CERTIFIED MAIL, BY POSTING SUCH NOTICE IN THREE PUBLIC PLACES WITHIN THE MUNICIPAL LIMITS, OR BY OTHER MEANS REASONABLY EXPECTED TO NOTIFY THE AFFECTED CANDIDATES OR PETITION REPRESENTATIVES. ANY AFFECTED CANDIDATE OR PETITION REPRESENTATIVE SHALL BE ALLOWED TO BE PRESENT DURING AND OBSERVE 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.~~ WHENEVER A RECOUNT OF THE VOTES CAST IN AN ELECTION IS NOT REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION, ANY INTERESTED PARTY, INCLUDING A CANDIDATE FOR OFFICE OR THE PETITION REPRESENTATIVES FOR A BALLOT ISSUE OR QUESTION, MAY SUBMIT TO THE CLERK A WRITTEN REQUEST FOR A RECOUNT AT THE EXPENSE OF THE INTERESTED PARTY MAKING THE REQUEST. This request shall be filed with the clerk within ~~ten~~ SEVEN days after the election. Before conducting the recount, the clerk shall GIVE NOTICE OF THE RECOUNT IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION, SHALL determine the cost ~~thereof~~ OF THE RECOUNT, ~~and~~ SHALL notify the ~~requesting person or persons~~ INTERESTED PARTY THAT REQUESTED THE RECOUNT OF SUCH COST, AND SHALL COLLECT THE COST OF CONDUCTING THE RECOUNT FROM SUCH INTERESTED PARTY. The ~~person or persons~~ INTERESTED PARTY THAT REQUESTED THE RECOUNT shall pay on demand the cost of the recount to the clerk. THE FUNDS PAID TO THE CLERK FOR THE RECOUNT SHALL BE PLACED IN ESCROW FOR PAYMENT OF ALL EXPENSES INCURRED IN THE RECOUNT. If, after the recount, the ~~candidate who requested the recount is declared the winner~~ RESULT of the election ~~or the ballot issue is declared passed regardless of the margin of victory~~ IS REVERSED IN FAVOR OF THE INTERESTED PARTY THAT REQUESTED THE RECOUNT OR IF THE AMENDED ELECTION COUNT IS SUCH THAT A RECOUNT OTHERWISE WOULD HAVE BEEN REQUIRED PURSUANT TO SUBSECTION (1) OF THIS SECTION, the payment for expenses shall be refunded to the ~~person or group~~ INTERESTED PARTY who paid them. ANY RECOUNT OF VOTES CONDUCTED PURSUANT TO THIS SUBSECTION (2) SHALL BE COMPLETED NO LATER THAN THE TENTH DAY AFTER THE ELECTION.

(6) AFTER A RECOUNT CONDUCTED PURSUANT TO THIS SECTION HAS BEEN COMPLETED, THE CLERK SHALL NOTIFY THE GOVERNING BODY OF THE RESULTS OF THE RECOUNT, SHALL MAKE A CERTIFICATE OF ELECTION FOR EACH CANDIDATE WHO RECEIVED THE HIGHEST NUMBER OF VOTES FOR AN OFFICE FOR WHICH A RECOUNT WAS CONDUCTED, AND SHALL DELIVER THE CERTIFICATE TO SUCH CANDIDATE.

SECTION 20. 31-10-1303, Colorado Revised Statutes, is amended to read:

31-10-1303. Filing statement - contents. The contestor shall file in the office of the clerk of the district court, within ten days after the ~~day when the votes are canvassed~~ EXPIRATION OF THE PERIOD WITHIN WHICH A RECOUNT MAY BE REQUESTED PURSUANT TO SECTION 31-10-1207 (2), OR WITHIN TEN DAYS AFTER THE CONCLUSION OF A RECOUNT CONDUCTED PURSUANT TO SECTION 31-10-1207, WHICHEVER IS LATER, a written statement of ~~his~~ THE CONTESTOR'S intention to contest the election, setting forth the name of the contestor, that ~~he~~ THE CONTESTOR is a registered elector of the municipality, the name of the contestee, the office contested, the time of election, and the particular causes of the contest. The statement shall be verified by the affidavit of the contestor or some registered elector of the municipality that the causes set forth in such statement are true to the best of ~~his~~ THE AFFIANT'S knowledge and belief.

SECTION 21. 31-10-1308 (2), Colorado Revised Statutes, is amended to read:

31-10-1308. Ballot questions - how contested. (2) Any contest arising out of a ballot issue or ballot question, as defined in section 1-1-104 (2.3) and (2.7), C.R.S., concerning the order on the ballot or CONCERNING WHETHER the form or content of any ballot title MEETS THE REQUIREMENTS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION, shall be conducted as provided in section 1-11-203.5, C.R.S.

SECTION 22. Article 11 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-11-103.5. Computation of time. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, CALENDAR DAYS SHALL BE USED IN ALL COMPUTATIONS OF TIME MADE UNDER THE PROVISIONS OF THIS ARTICLE. IN COMPUTING TIME FOR ANY ACT TO BE DONE BEFORE ANY MUNICIPAL ELECTION, THE FIRST DAY SHALL BE INCLUDED, AND THE LAST OR ELECTION DAY SHALL BE EXCLUDED. EXCEPT WHEN COMPUTING BUSINESS DAYS, SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS SHALL BE INCLUDED, BUT, IF THE TIME FOR ANY ACT TO BE DONE OR THE LAST DAY OF ANY PERIOD IS A SATURDAY, SUNDAY, OR A LEGAL HOLIDAY, THE PERIOD IS EXTENDED TO INCLUDE THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY. IF THE TIME FOR AN ACT TO BE DONE UNDER THIS ARTICLE IS REFERRED TO IN BUSINESS DAYS, THE TIME SHALL BE COMPUTED BY EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.

SECTION 23. 31-11-104 (1), Colorado Revised Statutes, is amended to read:

31-11-104. Ordinances - initiative - conflicting measures. (1) Any proposed ordinance may be submitted to the legislative body of any municipality by filing written notice of the proposed ordinance with the clerk and, within one hundred eighty days after ~~the notice~~ APPROVAL OF THE PETITION PURSUANT TO SECTION 31-11-106 (1), by filing a petition signed by at least five percent of the registered electors of the city or

town on the date of such notice. The proposed ordinance may be adopted without alteration by the legislative body within twenty days following the final determination of petition sufficiency. If vetoed by the mayor, the proposed ordinance may be passed over the mayor's veto within ten days after the veto. If the proposed ordinance is not adopted by the legislative body, the legislative body shall forthwith publish the proposed ordinance as other ordinances are published and shall refer the proposed ordinance, in the form petitioned for, to the registered electors of the municipality at a regular or special election held not less than sixty days and not more than one hundred fifty days after the final determination of petition sufficiency, unless otherwise required by the state constitution. The ordinance shall not take effect unless a majority of the registered electors voting on the measure at the election vote in favor of the measure.

SECTION 24. 31-11-106 (1) and (3) (e) (I), Colorado Revised Statutes, are amended to read:

31-11-106. Form of petition sections. (1) Each petition section shall be printed in a form consistent with the requirements of this article. No petition section shall be printed or circulated unless the form and the first printer's proof of the petition section have first been approved by the clerk. THE CLERK SHALL APPROVE OR REJECT THE FORM AND THE FIRST PRINTER'S PROOF OF THE PETITION NO LATER THAN FIVE BUSINESS DAYS FOLLOWING THE DATE ON WHICH THE CLERK RECEIVED SUCH MATERIAL. The clerk shall assure that the petition section contains only those elements required by this article and contains no extraneous material. THE CLERK MAY REJECT A PETITION OR A SECTION OF A PETITION ON THE GROUNDS THAT THE PETITION OR A SECTION OF THE PETITION DOES NOT PROPOSE MUNICIPAL LEGISLATION PURSUANT TO SECTION 1 (9) OF ARTICLE V OF THE STATE CONSTITUTION.

(3) (e) (I) Following the signature pages of each petition section, there shall be attached a signed, notarized, and dated affidavit executed by the ~~registered elector~~ PERSON who circulated the petition section, which shall include the following:

(A) The ~~elector's~~ AFFIANT'S printed name, the address at which ~~he or she~~ THE AFFIANT resides, including the street name and number, the municipality, the county, and the date ~~he or she~~ THE AFFIANT signed the affidavit;

(B) That ~~he or she~~ THE AFFIANT has read and understands the laws governing the circulation of petition;

(C) That ~~he or she was a registered elector~~ THE AFFIANT WAS EIGHTEEN YEARS OF AGE OR OLDER at the time the section of the petition was circulated and signed by the listed electors;

(D) That ~~he or she~~ THE AFFIANT circulated the section of the petition;

(E) That each signature thereon was affixed in the ~~circulator's~~ AFFIANT'S presence;

(F) That each signature thereon is the signature of the person whose name it purports to be;

(G) That, to the best of the ~~circulator's~~ AFFIANT'S knowledge and belief, each of the persons signing the petition section was, at the time of signing, a registered elector; and

(H) That ~~he or she~~ THE AFFIANT has not paid or will not in the future pay and that ~~he or she~~ THE AFFIANT believes that no other person has paid or will pay, directly or indirectly, any money or other thing of value to any signer for the purpose of inducing or causing such signer to affix ~~his or her~~ THE SIGNER'S signature to the petition.

SECTION 25. 31-11-107, Colorado Revised Statutes, is amended to read:

31-11-107. Circulators - requirements. The circulation of any petition section other than personally by a circulator is prohibited. No section of a petition for any initiative or referendum measure shall be circulated by any person who is not a registered elector and at least eighteen years of age at the time the section is circulated.

SECTION 26. 31-11-110 (1), Colorado Revised Statutes, is amended to read:

31-11-110. Protest. (1) Within ~~thirty~~ FORTY days after an initiative or referendum petition is filed, a protest in writing under oath may be filed in the office of the clerk by any registered elector who resides in the municipality, setting forth specifically the grounds for such protest. The grounds for protest may include, but shall not be limited to, the failure of any portion of a petition or circulator affidavit to meet the requirements of this article. No signature may be challenged that is not identified in the protest by section and line number. The clerk shall forthwith mail a copy of such protest to the persons designated as representing the petition proponents pursuant to section 31-11-106 (2) and to the protester, together with a notice fixing a time for hearing such protest that is not less than five or more than ten days after such notice is mailed.

SECTION 27. Article 11 of title 31, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

31-11-118. Powers of clerk and deputy. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THE CLERK SHALL RENDER ALL INTERPRETATIONS AND SHALL MAKE ALL INITIAL DECISIONS AS TO CONTROVERSIES OR OTHER MATTERS ARISING IN THE OPERATION OF THIS ARTICLE.

(2) ALL POWERS AND AUTHORITY GRANTED TO THE CLERK BY THIS ARTICLE MAY BE EXERCISED BY A DEPUTY CLERK IN THE ABSENCE OF THE CLERK OR IN THE EVENT THE CLERK FOR ANY REASON IS UNABLE TO PERFORM THE DUTIES OF THE CLERK'S OFFICE.

SECTION 28. Effective date. 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; 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.

Approved: May 24, 2000