

CHAPTER 2

ELECTIONS

HOUSE BILL 08-1155

BY REPRESENTATIVE(S) Balmer and Marshall, Benefield, Borodkin, Butcher, Carroll M., Casso, Gallegos, Gardner B., Garza-Hicks, Green, Jahn, Kerr J., King, Labuda, Lambert, Looper, Lundberg, Marostica, Massey, McNulty, Mitchell V., Peniston, Pommer, Rose, Sonnenberg, Stafford, Summers, Todd, White, Witwer, and Levy;
also SENATOR(S) Gordon and Johnson, Kester, Romer, Schultheis, Shaffer, Spence, and Taylor.

AN ACT

CONCERNING THE AUTHORITY OF THE SECRETARY OF STATE TO CONTINUE THE CERTIFICATION PROCESS FOR VOTING SYSTEMS RETESTED BY THE SECRETARY OF STATE IN 2007.

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

SECTION 1. Part 6 of article 5 of title 1, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

1-5-622. Special rules applicable to 2007 retesting of voting systems - repeal.

(1) **Legislative declaration.** THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(a) THE INTEGRITY OF ELECTIONS DEPENDS ON VOTING SYSTEMS THAT ARE ACCURATE, SECURE, AND ACCESSIBLE.

(b) RECENT TESTING OF VOTING SYSTEMS USED IN COLORADO BY THE SECRETARY OF STATE REVEALED POTENTIAL PROBLEMS WITH SOME VOTING SYSTEMS, AND SOME VOTING SYSTEMS WERE DECERTIFIED BY THE SECRETARY OF STATE ON DECEMBER 17, 2007.

(c) COUNTY CLERKS AND RECORDERS NEED TO KNOW WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION WHICH VOTING SYSTEMS THEY MAY USE IN THE PRIMARY AND GENERAL ELECTIONS IN 2008.

(2) **Authority of secretary of state to continue certification process.** IN ADDITION TO THE SECRETARY OF STATE'S AUTHORITY UNDER SECTION 1-5-621 (6) AND (7) AND WITHOUT RELAXING EXISTING STANDARDS, THE SECRETARY OF STATE

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

MAY AMEND OR RESCIND ANY OF THE ORDERS ISSUED BY THE SECRETARY OF STATE ON DECEMBER 17, 2007, REGARDING THE CERTIFICATION OF VOTING SYSTEMS. IF THE SECRETARY OF STATE AMENDS OR RESCINDS AN ORDER DECERTIFYING A VOTING SYSTEM PURSUANT TO THIS SUBSECTION (2), THE SECRETARY OF STATE SHALL PERFORM A TEST OR OTHERWISE DEMONSTRATE THAT THE MAJOR DEFICIENCIES IDENTIFIED IN THE ORDER TO DECERTIFY THE VOTING SYSTEM HAVE BEEN RESOLVED OR MITIGATED AND SHALL ISSUE A STATEMENT OF THE SPECIFIC REASONS FOR THE DECISION TO AMEND OR RESCIND THE ORDER. THE DECISION SHALL BE EFFECTIVE ONLY FOR ELECTIONS HELD IN 2008 AND 2009. THE SECRETARY OF STATE SHALL DELIVER A COPY OF A DECISION MADE PURSUANT TO THIS SUBSECTION (2) TO THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES AND TO THE DESIGNATED ELECTION OFFICIAL OF EACH POLITICAL SUBDIVISION THAT USES THE VOTING SYSTEM SUBJECT TO THE DECISION. IN CONNECTION WITH A POTENTIAL DECISION TO AMEND OR RESCIND AN ORDER, THE SECRETARY OF STATE MAY REQUIRE OR PERMIT ADDITIONAL TESTING OF THE VOTING SYSTEM SUBJECT TO THE ORDER AND COMMUNICATE WITH THE VOTING SYSTEM PROVIDER AND COUNTY CLERKS AND RECORDERS TO ENSURE THE ACCURACY, SECURITY, AND ACCESSIBILITY OF THE VOTING SYSTEM. THE SECRETARY OF STATE SHALL ALLOW A COUNTY CLERK AND RECORDER TO DESIGNATE AN EMPLOYEE OF THE OFFICE OF THE COUNTY CLERK AND RECORDER TO OPERATE THE VOTING SYSTEM DURING THE ADDITIONAL TESTING. ADDITIONAL TESTING AND COMMUNICATION CONDUCTED BY THE SECRETARY OF STATE PURSUANT TO THIS SUBSECTION (2) SHALL BE SUBJECT TO APPLICABLE PROVISIONS OF PART 4 OF ARTICLE 6 OF TITLE 24, C.R.S., AND PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S. THE SECRETARY OF STATE SHALL CONSIDER ANY INFORMATION OBTAINED FROM THE TESTING OR COMMUNICATION IN A DECISION TO AMEND OR RESCIND AN ORDER PURSUANT TO THIS SUBSECTION (2). IN DECIDING WHETHER TO AMEND OR RESCIND AN ORDER PURSUANT TO THIS SUBSECTION (2), THE SECRETARY OF STATE SHALL CONSIDER THE ACCURACY AND SECURITY PROCEDURES, AUDITS, PROCESSING FUNCTIONS, AND OTHER RELEVANT PROCEDURES USED BY COUNTY CLERKS AND RECORDERS IN ACCORDANCE WITH THE LAWS AND RULES GOVERNING THE CONDUCT OF ELECTIONS.

(3) **Use of other voting systems.** NOTHING IN THIS SECTION SHALL PREVENT A POLITICAL SUBDIVISION FROM PURCHASING AND USING ANY OTHER VOTING SYSTEM THAT MEETS THE REQUIREMENTS OF THE STATE STATUTES AND RULES ON VOTING SYSTEMS.

(4) **Repeal.** THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2009.

SECTION 2. 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: February 11, 2008