

CHAPTER 400

ELECTIONS

SENATE BILL 08-243

BY SENATOR(S) Gordon;
also REPRESENTATIVE(S) Carroll M., Carroll T., Labuda, Looper, Massey, McGihon, Middleton, Todd, and Frangas.

AN ACT**CONCERNING THE CREATION OF THE ELECTION REFORM COMMISSION.**

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

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

**PART 4
ELECTION REFORM COMMISSION**

1-1-401. Election reform commission - creation - membership - staff.

(1) THERE IS HEREBY CREATED THE ELECTION REFORM COMMISSION, REFERRED TO IN THIS PART 4 AS THE "COMMISSION". THE MISSION OF THE COMMISSION IS TO REVIEW, RESEARCH, AND MAKE RECOMMENDATIONS TO ENSURE THAT EVERY ELIGIBLE CITIZEN HAS THE OPPORTUNITY TO REGISTER TO VOTE, PARTICIPATE IN FAIR, ACCESSIBLE, AND IMPARTIAL ELECTIONS, AND HAVE THE ASSURANCE THAT HIS OR HER VOTE WILL COUNT.

(2) THE COMMISSION SHALL CONSIST OF ELEVEN MEMBERS, APPOINTED NO LATER THAN AUGUST 15, 2008, AS FOLLOWS:

(a) TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE;

(b) TWO MEMBERS APPOINTED BY THE MINORITY LEADER OF THE SENATE;

(c) TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, ONE OF WHOM SHALL BE EITHER A COUNTY CLERK AND RECORDER OR A REPRESENTATIVE OF COUNTY CLERK AND RECORDERS, OR A REPRESENTATIVE OF MUNICIPAL GOVERNMENT;

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

(d) TWO MEMBERS APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES, ONE OF WHOM SHALL BE EITHER A COUNTY CLERK AND RECORDER OR A REPRESENTATIVE OF COUNTY CLERK AND RECORDERS, OR A REPRESENTATIVE OF MUNICIPAL GOVERNMENT, WHICHEVER WAS NOT APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (2);

(e) ONE MEMBER APPOINTED BY THE GOVERNOR;

(f) ONE MEMBER APPOINTED BY THE SECRETARY OF STATE; AND

(g) ONE MEMBER, APPOINTED JOINTLY BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE, WHO SHALL SERVE AS THE CHAIRPERSON OF THE COMMISSION.

(3) THE OFFICIALS WHO APPOINT THE MEMBERS OF THE COMMISSION SHALL ATTEMPT TO ACHIEVE REGIONAL DIVERSITY AND PARTISAN BALANCE ON THE COMMISSION AND SHALL CONSIDER FOR MEMBERSHIP PERSONS WITH EXPERIENCE AND EXPERTISE IN:

(a) ELECTION LAW, INCLUDING ELECTION RULE 45 OF THE SECRETARY OF STATE, 8 CCR 1505-1, AND THE FEDERAL "HELP AMERICA VOTE ACT OF 2002", PUB.L. 107-252, CODIFIED AT 42 U.S.C. SEC. 15301 ET SEQ., REFERRED TO IN THIS PART 4 AS "HAVA";

(b) ELECTION ADMINISTRATION, AS AN ELECTED COUNTY CLERK AND RECORDER OR AS A STATE OR LOCAL ELECTION OFFICIAL;

(c) COMPUTER SCIENCE, INCLUDING EVALUATION AND TESTING OF COMPUTER SYSTEMS, NETWORKING, AND SECURITY;

(d) STATISTICS AND AUDITING, INCLUDING SAMPLING AND CORRELATION OF PRECINCT DATA WITH COUNTY DATA;

(e) ENGINEERING AND SYSTEMS ANALYSIS; AND

(f) ACCESSIBILITY OF VOTING SYSTEMS TO PERSONS WITH DISABILITIES.

(4) THE LEGISLATIVE COUNCIL STAFF AND THE OFFICE OF LEGISLATIVE LEGAL SERVICES MAY ASSIST THE COMMISSION WHEN SUCH ASSISTANCE IS APPROVED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE SENATE.

(5) THE MEMBERS OF THE COMMISSION SHALL SERVE WITHOUT COMPENSATION AND WITHOUT REIMBURSEMENT OF EXPENSES.

(6) THE CHAIRPERSON OF THE COMMISSION SHALL CALL THE FIRST MEETING OF THE COMMISSION, TO BE HELD NO LATER THAN NOVEMBER 14, 2008. THE CHAIRPERSON SHALL DETERMINE THE SCHEDULE OF MEETINGS OF THE COMMISSION AND PRESENT THE FINAL REPORT OF THE COMMISSION IN ACCORDANCE WITH SECTION

1-1-402 (4).

1-1-402. Duties - scope of review - meetings - report. (1) THE COMMISSION SHALL:

(a) CONDUCT A NONPARTISAN REVIEW OF THE MANNER IN WHICH STATE AND LOCAL ELECTIONS ARE CURRENTLY CONDUCTED;

(b) REVIEW ANY RESEARCH, DATA, AND REPORTS AVAILABLE ON ELECTIONS THAT MAY ASSIST THE COMMISSION IN RECOMMENDING CHANGES TO THE STATE'S ELECTION LAWS; AND

(c) RECOMMEND CHANGES TO THE STATE'S ELECTION LAWS TO PROTECT THE FUNDAMENTAL RIGHT TO VOTE GUARANTEED BY THE STATE CONSTITUTION BY ENSURING THAT EVERY ELECTION CONDUCTED IN THE STATE IS ACCURATE, SECURE, TRANSPARENT, VERIFIABLE, RECOUNTABLE, AUDITABLE, AND ACCESSIBLE.

(2) THE REVIEW CONDUCTED BY THE COMMISSION PURSUANT TO PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION MAY ADDRESS SUBJECTS INCLUDING BUT NOT LIMITED TO:

(a) ISSUES AND PROBLEMS INVOLVING ELECTRONIC VOTING SYSTEMS THAT HAVE ARISEN IN COLORADO AND OTHER STATES SINCE THE ENACTMENT OF HAVA;

(b) THE STANDARDS, CRITERIA, AND PROCEDURES BY WHICH RULES AND GUIDELINES FOR THE CERTIFICATION OF ELECTRONIC VOTING SYSTEMS ARE ADOPTED IN THE STATE;

(c) THE MANNER IN WHICH ELECTRONIC VOTING SYSTEMS ARE CERTIFIED IN THE STATE;

(d) PUBLIC ACCESS TO THE CERTIFICATION PROCESS AND TO ELECTRONIC VOTING SYSTEM SOFTWARE;

(e) TECHNOLOGY THAT ENABLES PERSONS WITH DISABILITIES TO VOTE INDEPENDENTLY AND IN COMPLIANCE WITH HAVA;

(f) THE SHORT-TERM AND LONG-TERM COSTS OF PURCHASING, MAINTAINING, AND OPERATING ELECTRONIC VOTING SYSTEMS;

(g) THE RELIABILITY AND INTEGRITY OF ELECTRONIC AND OTHER VOTING SYSTEMS;

(h) THE SECURITY, ACCURACY, AND EFFICIENCY OF THE SYSTEMS AND METHODS USED TO REGISTER ELECTORS AND TO MAINTAIN VOTER REGISTRATION RECORDS;

(i) ISSUES RELATED TO THE CONDUCT OF ELECTIONS IN SPECIAL DISTRICTS;

(j) WHETHER THE STATE SHOULD ADOPT A UNIFORM VOTING SYSTEM TO BE USED IN ALL COUNTIES;

(k) WHETHER THE AUDITING AND RECOUNTING PROCEDURES IN CURRENT LAW PROVIDE A MEANINGFUL LEVEL OF STATISTICAL CONFIDENCE TO ELECTORS AND CANDIDATES;

(l) THE NUMBER OF ELIGIBLE ELECTORS WHO SHOW A FORM OF IDENTIFICATION THAT DOES NOT CONTAIN A PHOTOGRAPH OF THE ELIGIBLE ELECTOR WHEN VOTING AT A POLLING PLACE, AND THE NUMBER OF ELIGIBLE ELECTORS WHO SHOW EACH FORM OF SUCH IDENTIFICATION, BASED ON INFORMATION RECEIVED FROM COUNTY CLERKS AND RECORDERS;

(m) OTHER ISSUES RELATED TO THE ACCURACY, SECURITY, TRANSPARENCY, VERIFIABILITY, RECOUNTABILITY, AUDITABILITY, AND ACCESSIBILITY OF ELECTIONS IN THE STATE;

(n) ALTERNATIVE METHODS OF CONDUCTING ELECTIONS; AND

(o) THE FEASIBILITY AND DESIRABILITY OF CREATING A PERMANENT ELECTION REFORM COMMISSION.

(3) THE MEETINGS OF THE COMMISSION SHALL BE OPEN TO THE PUBLIC. AT NO FEWER THAN TWO MEETINGS HELD BEFORE THE COMMISSION ISSUES THE FINAL REPORT PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE COMMISSION SHALL SOLICIT AND RECEIVE PUBLIC TESTIMONY AND INPUT ON THE ISSUES STUDIED BY THE COMMISSION AND PUBLIC COMMENTS ON THE WORK OF THE COMMISSION.

(4) THE COMMISSION SHALL PRESENT A FINAL REPORT TO THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE SENATE AND THE HOUSE OF REPRESENTATIVES NO LATER THAN MARCH 1, 2009. THE REPORT SHALL INCLUDE THE COMMISSION'S RECOMMENDED CHANGES TO THE STATE'S ELECTION LAWS AND AN UNBIASED ANALYSIS OF THE FISCAL IMPACT AND TECHNICAL FEASIBILITY OF THE RECOMMENDED CHANGES.

1-1-403. Repeal of part. THIS PART 4 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: June 2, 2008