

March 15, 2021

In regard to the 2022 Session of the Colorado State Legislature SENATE BILL 22-153 - A BILL FOR AN ACT CONCERNING INCREASING INTERNAL ELECTION SECURITY MEASURES

From:

John Greene representing myself
1722 S Nome Way
Aurora, CO
303-981-8815

State, Veterans, & Military Affairs Committee:

I speak in opposition to this legislation. In the effort to increase election security measure the SOS is given powers that overstep counties, canvassing boards, and make her co filer of injunctive actions along with the CO Attorney General.

Voting happens on a local level including efforts to secure measures around voting. There is no reason why security measure cannot be enhanced on a local also rather than increasing election security measures thru the SOS.

Additionally it is hard to believe our current SOS is being given more powers when she has some house work to deal with herself. The SOS duty is to enforce election code, the SOS can make rules in enforcing but cannot reach beyond CO law.

One of the SOS's emergency rules last year stated:

New rule 2.13.2

In accordance with section 1-2-605(7), C.R.S., no later than 90 days following a General Election, the Department of State, working in conjunction with county clerks, will cancel the registrations of electors:(a) Whose records have been marked "Inactive–returned mail", "Inactive–undeliverable ballot", or "Inactive–NCOA"; and(b) Who have been mailed a confirmation card; and(c) Who have thereafter failed to vote in two consecutive general elections.

C.R.S. §1-2-605(7) actually states:

(7) If an elector whose registration record is marked "Inactive" fails to update his or her registration record, fails to respond to any confirmation card, and fails to vote in any election conducted by the county clerk and recorder during the time period that includes two consecutive general elections since the elector's registration record was marked "Inactive", the county clerk and recorder shall cancel the elector's registration record. Nothing in this section allows an elector's registration record to be canceled solely for failure to vote.

In this case the SOS's rule did not square up with CO State law, and this legislation enhances her rulemaking and compliance to it.

In addition there is good reason to consider (for above SOS rule and items following see Hanks vs Griswold – Denver District Court, City and County of Denver, Colorado - Case No: 2021CV033691) that the SOS's trusted build last year violated CO law in upgrading voting equipment across the State in the following manner:

-The federally accredited voting system testing laboratory testing the upgrade was not federally accredited when it conducted portions of the testing. C.R.S. 1-5-608.5

-The upgrade deleted voting records that are required by law for 25 months. C.R.S. 1-7-802

PLEASE CONSIDER THE FOLLOWING CHANGES TO SENATE BILL 22-153

7 **SECTION 4.** In Colorado Revised Statutes, 1-1-107, **amend**

8 (2)(d) as follows:

9 **1-1-107. Powers and duties of secretary of state - penalty.**

10 (2) In addition to any other powers prescribed by law, the secretary of
11 state has the following powers:

12 (d) To enforce the provisions of this code by injunctive action

13 brought by the attorney general OR ~~SECRETARY OF STATE~~ in the district

14 court for the judicial district in which any violation occurs. UPON AN

For the sake of separation of powers, keep this power with the CO Attorney General only.

CONTINUE

CONTINUE

21 **1-1-304. Qualifications and conduct of election officials.** (1) A
22 PERSON SHALL NOT SERVE AS THE DESIGNATED ELECTION OFFICIAL FOR A
23 COUNTY OR AS THE COORDINATED ELECTION OFFICIAL IF THE PERSON:
24 (a) HAS BEEN CONVICTED OF ANY ELECTION OFFENSE FOUND IN
25 ARTICLE 13 OF TITLE 1 OR ANY SIMILAR ELECTION OFFENSE IN ANOTHER
26 STATE; OR
27 (b) HAS BEEN CONVICTED OF ANY OFFENSE OR CONSPIRACY TO

1 COMMIT SEDITION, INSURRECTION, TREASON, CONSPIRACY TO OVERTHROW
2 GOVERNMENT BY USE OF PHYSICAL FORCE OR VIOLENCE, OR ANY SIMILAR
3 FEDERAL OFFENSE.

4 ~~(2) NO PERSON, WHILE SERVING AS A DESIGNATED ELECTION~~
5 ~~OFFICIAL FOR A COUNTY OR A COORDINATED ELECTION OFFICIAL OR WHILE~~
6 ~~ACTING AT THE DIRECTION OF SUCH OFFICIAL SHALL KNOWINGLY OR~~

7 RECKLESSLY MAKE, PUBLISH, BROADCAST, OR CIRCULATE OR CAUSE TO BE
8 MADE, PUBLISHED, BROADCASTED, OR CIRCULATED IN ANY LETTER,
9 ELECTRONIC POSTING, CIRCULAR, ADVERTISEMENT, OR POSTER OR IN ANY
10 OTHER COMMUNICATION ANY FALSE STATEMENT FOR THE PURPOSES OF
11 PROMOTING MISINFORMATION OR DISINFORMATION RELATED TO THE
12 ADMINISTRATION OF ELECTIONS. NOTWITHSTANDING ANY OTHER
13 PROVISION OF LAW, FOR PURPOSES OF THIS SECTION, A PERSON ACTS
14 RECKLESSLY WHEN THE PERSON ACTS IN CONSCIOUS DISREGARD OF THE
15 TRUTH OR FALSITY OF THE STATEMENT MADE, PUBLISHED, BROADCASTED,
16 OR CIRCULATED.

Remove - Heavy handed, subjective, and has a free speech chilling effect.

27 SECTION 11. In Colorado Revised Statutes, 1-5-616, **add** (6) as

-11-

SB22-153

1 follows:

2 **1-5-616. Electronic and electromechanical voting systems -**
3 **standards - procedures.** (6) A COUNTY MAY NOT CREATE, PERMIT ANY
4 PERSON TO CREATE, OR DISCLOSE TO ANY PERSON AN IMAGE OF THE HARD
5 DRIVE OF ANY VOTING SYSTEM COMPONENT WITHOUT THE EXPRESS
6 WRITTEN PERMISSION OF THE DEPARTMENT OF STATE.

Remove - This equipment belongs to the county, transparency is essential in enhancing vote integrity, if trained people do this under the supervision of the County Clerks what is there to hide?

19 **SECTION 13.** In Colorado Revised Statutes, 1-10-104, **add** (3)

20 as follows:

21 ~~1-10-104. Imperfect returns - corrections.~~ (3) IF A MAJORITY OF
22 A CANVASS BOARD IN A COUNTY IS UNABLE TO OR DOES NOT CERTIFY THE
23 ABSTRACT OF VOTES FOR ANY REASON BY THE DEADLINE FOR THE COUNTY
24 TO CERTIFY THE ABSTRACT OF VOTES, THE SECRETARY OF STATE SHALL
25 REVIEW THE NONCERTIFIED ABSTRACT OF VOTES AND WRITTEN REPORT
26 PROVIDED BY THE CANVASS BOARD UNDER SECTION 1-10-101.5 (1)(c). IF,
27 AFTER REVIEW, THE SECRETARY OF STATE DETERMINES THAT THE

-13-

SB22-153

1 NONCERTIFIED ABSTRACT OF VOTES, ALONG WITH THE WRITTEN REPORT,
2 OTHER INFORMATION AND FACTS OF THE CASE PROVIDED BY THE COUNTY,
3 OR INFORMATION REVEALED UPON INVESTIGATION BY THE SECRETARY OF
4 STATE IS SUFFICIENTLY EXPLICIT IN SHOWING HOW MANY VOTES WERE
5 CAST FOR EACH CANDIDATE, BALLOT QUESTION, OR BALLOT ISSUE, THE
6 SECRETARY OF STATE SHALL CERTIFY THE RESULTS FOR THE COUNTY AND

7 PROCEED TO CERTIFYING STATE RESULTS UNDER SECTION 1-10-105. THE
8 SECRETARY OF STATE MAY DESIGNATE A REGISTERED ELECTOR OF THE
9 STATE TO CARRY OUT THE DUTIES REQUIRED BY THIS SECTION.

Remove – This is such a slap in the face to local election process especially in regard to volunteerism. Why does the SOS have to step in from the top to resolve these situations? Could it not be resolved from the bottom up with the SOS's involvement at the end if necessary?

1 **SECTION 15.** In Colorado Revised Statutes, **amend** 1-13-708 as
2 follows:

3 **1-13-708. Tampering with voting equipment - definition.**

4 (1) Any person who, AS DETERMINED BY RULES PROMULGATED BY THE
5 SECRETARY OF STATE IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
6 ACCESSES WITHOUT AUTHORIZATION, tampers with, OR FACILITATES THE
7 UNAUTHORIZED ACCESS TO OR TAMPERING WITH any electronic or
8 electromechanical voting equipment OR AN ELECTION-NIGHT REPORTING
9 SYSTEM before, during, or after any election provided by law ~~with intent~~
10 ~~to change the tabulation of votes thereon to reflect other than an accurate~~
11 ~~accounting is guilty of a class 1 misdemeanor and, upon conviction~~
12 ~~thereof, shall be punished as provided in section 18-1.3-501. C.R.S. IS~~
13 GUILTY OF A CLASS 5 FELONY AND, UPON CONVICTION THEREOF, SHALL BE
14 PUNISHED AS PROVIDED IN SECTION 18-1.3-401.

Do NOT amend. As is 1-13-708 addressed tampering “with intent to change the tabulation of votes thereon to reflect other than an accurate accounting”. This is now lined out and applies to any “tampering”, and increases the charge! This equipment belongs to the county, as mentioned earlier, transparency is essential in enhancing vote integrity, what is there to hide? It is also heavy handed and subjective.