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HOUSE BILL 09-1216

BY REPRESENTATIVE(S) Murray, Bradford, Court, Labuda, Looper, Middleton, Nikkel, Schafer S., Summers, Todd, Waller;
also SENATOR(S) Newell, Carroll M., Groff, Hudak, Kester, Williams.

CONCERNING VOTING BY ELECTORS, AND, IN CONNECTION THEREWITH,
AMENDING THE ELECTION CODE TO REFLECT CHANGES BROUGHT
ABOUT BY THE IMPLEMENTATION OF THE STATEWIDE VOTER
REGISTRATION SYSTEM AND PERMANENT MAIL-IN VOTING.

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

SECTION 1. 1-2-216 (1), Colorado Revised Statutes, is amended to read:

1-2-216. Change of residence. (1) Any eligible elector who has moved within ~~a county~~ THE STATE may have his or her residence changed on the registration record by submitting a letter or form furnished by the county clerk and recorder, either by mail or in person. The letter or form for the change shall include the elector's new residence address, ~~within the county~~, mailing address if different from the residence address, old address, printed name, birth date, social security number, if the elector wishes to state it, and signature and the date.

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 2. 1-2-605 (5), Colorado Revised Statutes, is amended to read:

1-2-605. Canceling registration - voter information card. (5) If a mail OR MAIL-IN ballot that was mailed pursuant to the requirements of this article to an elector who has been deemed "Active" is returned to the county clerk and recorder by the United States postal service as undeliverable, the county clerk and recorder shall send to the elector's address of record, unless the elector has requested that such communication be sent to his or her deliverable mailing address pursuant to section 1-2-204 (2) (k), a notice pursuant to section 1-2-509 by forwardable mail and a postage prepaid, preaddressed form by which the elector may verify or correct the address information. If the elector verifies that he or she resides in a county other than the county mailing the mail OR MAIL-IN ballot, the county clerk and recorder shall ~~mark the registration record of the elector "Canceled (insert date)", and the record shall be removed from the registration file of the county~~ FORWARD THE ADDRESS INFORMATION TO THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH THE VOTER RESIDES. If the elector fails to respond, the county clerk and recorder shall mark the registration record of that elector with the word "Inactive".

SECTION 3. 1-7.5-107 (3) (b.5) (I), Colorado Revised Statutes, is amended to read:

1-7.5-107. Procedures for conducting mail ballot election - first-time voters casting a mail ballot after having registered by mail to vote. (3) (b.5) (I) The return envelope shall have printed on it a self-affirmation substantially in the following form:

"I state under penalty of perjury that I am an eligible elector; that my ~~signature, name, and address~~ SIGNATURE AND NAME are as shown on this envelope; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with the provisions of the "Uniform Election Code of 1992".

.....
Date

.....
Signature of voter"

SECTION 4. 1-8-104 (3), Colorado Revised Statutes, is amended to read:

1-8-104. Applications for mail-in ballot. (3) The application for a mail-in ballot shall be filed with the designated election official of the political subdivision in which the applicant resides or is entitled to vote. The application shall be filed ~~no earlier than January 1 immediately preceding the election and~~ no later than the close of business on the Friday immediately preceding the election; except that, if the applicant wishes to receive the mail-in ballot by mail, the application shall be filed no later than the close of business on the seventh day before the election.

SECTION 5. 1-8-113 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

1-8-113. Manner of mail-in voting - first-time voters casting a mail-in ballot after having registered by mail to vote. (1) (e) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY ELIGIBLE ELECTOR FROM VOTING IN PERSON AT A POLLING PLACE DURING THE TIME FOR EARLY VOTING UPON SURRENDER OF THE ELECTOR'S MAIL-IN BALLOT.

SECTION 6. 1-8-114 (1), Colorado Revised Statutes, is amended to read:

1-8-114. Self-affirmation on return envelope. (1) The return envelope for the mail-in ballot shall have printed on it a self-affirmation substantially in the following form:

"I state under penalty of perjury that I am an eligible elector; ~~that I reside at the address indicated on my application for a mail-in ballot;~~ THAT MY SIGNATURE AND NAME ARE AS SHOWN ON THIS ENVELOPE; that I have not and will not cast any vote in this election except by the enclosed ballot; and that my ballot is enclosed in accord with the provisions of the "Uniform Election Code of 1992".

.....
Date

.....
Signature of voter"

SECTION 7. 1-8.5-101 (3), Colorado Revised Statutes, is amended, and the said 1-8.5-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

1-8.5-101. Provisional ballot - entitlement to vote.

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (5) OF THIS SECTION, if an elector applies for AND HAS BEEN ISSUED a mail-in ballot but spoils it or otherwise does not cast it, the elector may cast a provisional ballot at the polling place OR vote center ~~or early voter's polling place~~ if the elector affirms under oath that the elector has not and will not cast the mail-in ballot. The provisional ballot shall be counted if the designated election official verifies that the elector is registered to vote and did not cast the mail-in ballot and if the elector's eligibility to vote in the county is verified pursuant to section 1-8.5-105.

(5) ANY UNAFFILIATED ELECTOR AT A PRIMARY ELECTION MAY CAST A REGULAR PARTY BALLOT UPON OPENLY DECLARING TO THE ELECTION JUDGE THE NAME OF THE POLITICAL PARTY WITH WHICH THE ELECTOR WISHES TO AFFILIATE PURSUANT TO SECTION 1-2-218.5 OR 1-7-201.

SECTION 8. 31-10-1002, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

31-10-1002. Application for absentee ballot - delivery - list.

(2.5) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, THE CLERK SHALL ALSO DELIVER, AS SOON AS PRACTICABLE AFTER THE BALLOTS ARE RECEIVED, TO EACH MUNICIPAL ELECTOR WHOSE STATUS AS A PERMANENT MAIL-IN VOTER IS INDICATED IN THE VOTER REGISTRATION RECORDS OF THE COUNTY CLERK AND RECORDER, 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 9. 37-46-137 (9), Colorado Revised Statutes, is amended to read:

37-46-137. Conduct of election. (9) The district or subdistrict may provide for mail-in voters to cast their mail-in voters' ballots on voting machines expressly provided for that purpose, if each mail-in voter indicates by affidavit that he or she is qualified to vote at the election and will be a mail-in voter, pursuant to section ~~1-8-202~~ 1-8-102, C.R.S., of the "Uniform Election Code of 1992" and all laws supplemental thereto.

SECTION 10. 37-47-137 (9), Colorado Revised Statutes, is

amended to read:

37-47-137. Conduct of election. (9) The district or subdistrict may provide for mail-in voters to cast their mail-in voters' ballots on voting machines expressly provided for that purpose, if each mail-in voter indicates by affidavit that he or she is qualified to vote at the election and will be a mail-in voter, pursuant to section ~~1-8-202~~ 1-8-102, C.R.S., of the "Uniform Election Code of 1992" and all laws supplemental thereto.

SECTION 11. 37-48-179 (9), Colorado Revised Statutes, is amended to read:

37-48-179. Conduct of election. (9) The district or subdistrict may provide for mail-in voters to cast their mail-in voters' ballots on voting machines expressly provided for that purpose, if each mail-in voter indicates by affidavit that he or she is qualified to vote at the election and will be a mail-in voter, pursuant to section ~~1-8-202~~ 1-8-102, C.R.S., of the "Uniform Election Code of 1992" and all laws supplemental thereto.

SECTION 12. 37-50-128 (9), Colorado Revised Statutes, is amended to read:

37-50-128. Conduct of election. (9) The district may provide for mail-in voters to cast their mail-in voters' ballots on voting machines expressly provided for that purpose, if each mail-in voter indicates by affidavit that he or she is qualified to vote at the election and will be a mail-in voter, pursuant to section ~~1-8-202~~ 1-8-102, C.R.S.

SECTION 13. Act subject to petition - 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, (August 5, 2009, if adjournment sine die is on May 6, 2009); 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.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO