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HOUSE BILL 15-1130

BY REPRESENTATIVE(S) Nordberg and Ryden, Arndt, Brown, Carver, Esgar, Fields, Ginal, Hamner, Keyser, Klingenschmitt, Lawrence, Lebsock, Lontine, Melton, Mitsch Bush, Moreno, Pabon, Pettersen, Priola, Ransom, Rosenthal, Roupe, Salazar, Tate, Winter, Court, Duran, Kagan, Landgraf, Williams, Windholz, Young;
also SENATOR(S) Garcia and Hill, Aguilar, Cooke, Crowder, Donovan, Grantham, Guzman, Hodge, Jahn, Jones, Kefalas, Lambert, Martinez Humenik, Merrifield, Newell, Roberts, Steadman, Todd, Ulibarri.

CONCERNING VOTING BY ACTIVE MILITARY AND OVERSEAS VOTERS IN MUNICIPAL ELECTIONS, AND, IN CONNECTION THEREWITH, EXTENDING CERTAIN DEADLINES THAT GOVERN THE CONDUCT OF MUNICIPAL ELECTIONS TO ENSURE THAT SUCH VOTERS HAVE THE SAME ABILITY TO VOTE IN SUCH ELECTIONS AS THEY DO IN FEDERAL, STATE, AND COUNTY ELECTIONS.

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

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) The right to vote is a fundamental right of all Americans;

(b) American military personnel who are stationed outside of the United States while serving in the military and other Americans who live abroad face significant logistical challenges in exercising their right to vote in elections conducted in their home states; and

(c) The federal "Uniformed and Overseas Citizens Absentee Voting Act", 42 U.S.C. sec. 1973ff-2, and the state "Uniform Military and Overseas Voters Act", article 8.3 of title 1, Colorado Revised Statutes, directly mitigate the logistical challenges of voting in federal and state elections for Colorado citizens living abroad and indirectly mitigate the challenges of voting in county elections, but do not apply to municipal elections.

(2) The general assembly further finds and declares that it is necessary, appropriate, and in the best interest of all Coloradans to extend certain deadlines that govern the conduct of municipal elections to ensure that the right of Coloradans living abroad to vote in municipal elections is protected to a similar extent as their right to vote in federal, state, and county elections.

SECTION 2. In Colorado Revised Statutes, 31-10-302, **amend** (2) introductory portion, (4), and (6); and **repeal** (8) as follows:

31-10-302. Nomination of municipal officers. (2) Nomination petitions may be circulated and signed beginning on the ~~fiftieth~~ NINETY-FIRST day and ending on the ~~thirtieth~~ SEVENTY-FIRST day prior to the day of election. Each petition ~~shall~~ MUST be signed by registered electors in the following numbers:

(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~~ THAT the clerk finds are not in apparent conformity with the requirements of this section at any time prior to ~~twenty-two~~ SIXTY-THREE days before the day of election.

(6) Each nomination petition shall be filed with the clerk no later than the ~~thirtieth~~ SEVENTY-FIRST day prior to the day of election. Every petition shall have endorsed thereon or appended thereto the written affidavit of the candidate accepting the nomination and swearing that the candidate satisfies the requirements set forth in section 31-10-301 to be a candidate and hold office in the municipality. The acceptance of nomination shall contain the place of residence of the candidate and the name of the candidate in the form that the candidate wishes it to appear on the ballot. The candidate's name may be a nickname or include a nickname but shall not contain any title or degree designating the business or profession of the candidate.

(8) ~~Nomination petitions for candidates whose name will be on the ballot at a coordinated 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.~~

SECTION 3. In Colorado Revised Statutes, 31-2-104, **amend** (4) as follows:

31-2-104. Organization of new city or town. (4) At least ~~ten~~ TWENTY days before the election, the commissioners by their ~~chairman~~ CHAIR shall give notice of the election in the manner prescribed by the "Colorado Municipal Election Code of 1965".

SECTION 4. In Colorado Revised Statutes, 31-2-207, **amend** (1) as follows:

31-2-207. Charter election - notice. (1) Within thirty days after the date that the charter commission submits the proposed charter to it, the governing body shall publish and give notice of an election to determine whether the proposed charter shall be approved, which election shall be held not less than ~~thirty~~ SIXTY nor more than one hundred eighty-five days after publication of the notice thereof. Such notice of the election shall contain the full text of the proposed charter.

SECTION 5. In Colorado Revised Statutes, 31-2-210, **amend** (4) as follows:

31-2-210. Procedure to amend or repeal charter. (4) The

governing body shall, within thirty days of the date of adoption of the ordinance or the date of filing of the petition (if the same is certified by the clerk to be valid and sufficient), publish notice of an election upon the amendment or proposal, which notice shall contain the full text of the amendment or statement of the proposal as contained in the ordinance or petition. The election shall be held not less than ~~thirty~~ SIXTY nor more than one hundred twenty days after publication of such notice; except that, if the proposal is for formation of a charter commission, the election shall be held not less than sixty days after publication of such notice. If the amendment or proposal is initiated by petition and is sought to be submitted at a special election, the election shall be held as near as possible to the approximate date stated in the petition, but in any event shall be held within the time limits stated in this subsection (4).

SECTION 6. In Colorado Revised Statutes, **add** 31-10-102.8 as follows:

31-10-102.8. Active military or overseas voters – timely mailing, casting, and receipt of ballot. (1) AS USED IN THIS SECTION, "BALLOT MATERIALS" MEANS THE STANDARDIZED ABSENTEE-VOTING MATERIALS DEVELOPED PURSUANT TO SECTION 1-8.3-104 (4) (a), C.R.S., AND THE DECLARATION AND FORM FOR THE EXECUTION OF THE DECLARATION DESCRIBED IN SECTION 1-8.3-104 (5), C.R.S.

(2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (2), THE CLERK SHALL MAIL A BALLOT AND BALLOT MATERIALS TO ANY PERSON DESIGNATED AS AN ACTIVE MILITARY OR OVERSEAS VOTER IN THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST NO LATER THAN FORTY-FIVE DAYS BEFORE AN ELECTION CONDUCTED IN ACCORDANCE WITH THIS ARTICLE; EXCEPT THAT, IF THE CLERK RECEIVES A CERTIFICATE OF NEW REGISTRATION, NOTIFICATION OF CHANGE OF ADDRESS, OR NOTIFICATION OF OTHER CHANGE IN STATUS FROM AN ACTIVE MILITARY OR OVERSEAS VOTER AFTER THE FORTY-FIFTH DAY BEFORE THE ELECTION, THE CLERK SHALL MAIL A BALLOT AND BALLOT MATERIALS TO THE VOTER AS SOON AS PRACTICABLE.

(b) IN A RECALL ELECTION CONDUCTED IN ACCORDANCE WITH PART 5 OF ARTICLE 4 OF THIS TITLE, THE CLERK SHALL MAIL A BALLOT AND BALLOT MATERIALS TO ANY PERSON DESIGNATED AS AN ACTIVE MILITARY OR OVERSEAS VOTER IN THE COMPUTERIZED STATEWIDE VOTER

REGISTRATION LIST AS SOON AS PRACTICABLE AFTER BALLOT CERTIFICATION.

(3) TO BE VALID, AN ACTIVE MILITARY OR OVERSEAS VOTER MUST SUBMIT THE BALLOT VIA POSTAL MAIL AND COMPLETE THE SIGNED AFFIRMATION, AS SPECIFIED IN SECTION 1-8.3-114, C.R.S., NOT LATER THAN 7 P.M. MOUNTAIN TIME ON THE DATE OF THE ELECTION. THE VOTE OF ANY ACTIVE MILITARY OR OVERSEAS VOTER WHO VOTES AS AUTHORIZED BY THIS SECTION MAY BE CHALLENGED IN THE MANNER SPECIFIED IN SECTION 31-10-1008.

(4) THE DESIGNATED ELECTION OFFICIAL MUST COUNT A VALID BALLOT RECEIVED IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION IF THE BALLOT IS RECEIVED BY THE CLOSE OF BUSINESS ON THE EIGHTH DAY AFTER THE ELECTION.

(5) NO LATER THAN SIXTY DAYS BEFORE THE ELECTION, THE COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH THE MUNICIPALITY IS LOCATED MUST FORWARD TO THE MUNICIPAL CLERK A COMPLETE LIST OF VOTERS IN THE MUNICIPALITY WHO ARE MARKED AS ACTIVE MILITARY OR OVERSEAS VOTERS IN THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST.

(6) ANY ELIGIBLE ELECTOR WHO IS DESIGNATED AS AN ACTIVE MILITARY OR OVERSEAS VOTER IN THE COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST MAY USE A FEDERAL WRITE-IN ABSENTEE BALLOT TO VOTE FOR ALL OFFICES AND BALLOT MEASURES IN ANY ELECTION CONDUCTED UNDER THIS ARTICLE OR ARTICLE 4 OF THIS TITLE. SUCH BALLOTS SHALL BE PROCESSED IN ACCORDANCE WITH SUBSECTIONS (3) AND (4) OF THIS SECTION.

SECTION 7. In Colorado Revised Statutes, **amend** 31-10-108 as follows:

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~~ SIXTY 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 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 8. In Colorado Revised Statutes, 31-10-303, **amend** (1) as follows:

31-10-303. Withdrawal from nominations. (1) Any person who has been nominated and who has accepted a nomination may cause his OR HER name to be withdrawn from such nomination at any time prior to ~~twenty-three~~ SIXTY-THREE days before election by a written affidavit withdrawing from such nomination. The affidavit stating withdrawal shall be signed by the candidate and filed with the clerk.

SECTION 9. In Colorado Revised Statutes, **amend** 31-10-305 as follows:

31-10-305. Objections to nominations. All petitions of nomination and affidavits ~~which~~ THAT are in apparent conformity with the provisions of section 31-10-302, as determined by the clerk, are valid unless objection thereto is duly made in writing within three days after the filing of the same. In case objection is made, notice thereof shall be forthwith mailed to any candidate who may be affected thereby. The clerk shall decide objections within at least forty-eight hours after the same are filed, and any objections sustained may be remedied or defect cured upon the original petition, by an amendment thereto, or by filing a new petition within three days after the objection is sustained, but in no event later than the ~~eighteenth~~ SIXTY-FOURTH day before the day of election. The clerk shall pass upon the validity of all objections, whether of form or substance, and the clerk's decisions upon matters of form shall be final. The clerk's decisions upon matters of substance shall be open to review if prompt application is made, as provided in section 31-10-1401, but the remedy in all cases shall be summary, and the decision of the district court shall be final and not subject to review by any other court; except that the supreme court, in the exercise of its discretion, may review any proceeding in a summary way.

SECTION 10. In Colorado Revised Statutes, **amend** 31-10-1201 as follows:

31-10-1201. Returns - canvass. The returns of all municipal elections shall be made to the clerk of the municipality. The clerk shall request the assistance of the mayor of the municipality in conducting the canvass of votes. If there is no mayor or if the mayor has been a candidate at the election, the clerk shall appoint a municipal judge, a member of the election commission, or a person who is qualified to be an election judge and who did not serve as an election judge in the election as an assistant. No later than ~~seven~~ TEN days after the election, the clerk, in the presence of the assistant, shall open the returns and make out abstracts of votes for each office.

SECTION 11. In Colorado Revised Statutes, 31-10-1207, **amend** (1) and (2) as follows:

31-10-1207. Recount. (1) 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~~ FIFTEENTH 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~~ IS allowed to be present during and observe the recount.

(2) 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 ~~seven~~ TEN 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 of the recount, shall notify the interested party that requested the recount of such cost, and shall collect the cost of conducting the recount from such interested party. The 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 result of the election 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 interested party who paid them. Any recount of votes conducted pursuant to this subsection (2) shall be completed no later than the ~~tenth~~ FIFTEENTH day after the election.

SECTION 12. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to elections conducted on or after the applicable effective date of this act.

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Bill L. Cadman
PRESIDENT OF
THE SENATE

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SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO