
SPECIAL DISTRICT ELECTIONS FREQUENTLY ASKED QUESTIONS



SPECIAL DISTRICT ASSISTANCE

Department of Local Affairs
1313 Sherman Street, Room 521
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INTRODUCTION

The following document is intended as a tool to guide special districts in the conduct of elections. The information is not to be construed as legal advice. The answers to each question includes a reference to the relevant Colorado Revised Statutes or the relevant Secretary of State Rules.

The Colorado Revised Statutes can be accessed at the state's website (www.state.co.us). Click on "Government" in the left hand margin. Under the heading, "Colorado Constitution and Statutes (Laws)", click on "Colorado Revised Statutes."

The Secretary of State Rules can be accessed at its website (www.sos.state.co.us). First, click on "Elections" and then "2004 Election Information." The information can be found under the heading, "Rules".

Questions are arranged according to the following outline:

- Administration
- Elections Generally
- Notice and Preparation for Elections
- Election Judges
- Conduct of Elections
- Mail Ballot Elections
- Absentee Voting
- Challenges
- Recounts
- Certificates of Election and Election Contests
- Recall Process
- Election Offenses
- TABOR Related Issues
- Provisional Ballots

For more information or for more DOLA technical assistance publications see the department's web site at www.dola.state.co.us and click on "Information and Publications".

ADMINISTRATION

What are the oath and bond requirements for a member of a special district board?

Each director within 30 days after his or her election or appointment to fill a vacancy, except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath. When an election is cancelled, each director who was declared elected shall take the oath required within thirty days after the date of the regular election, except for good cause shown. The oath may be administered by the clerk and recorder, by any person authorized to administer oaths in the state (i.e. notaries), or by the chairman of the board and shall be filed with the clerk of the district court and the division of local government.

At the time of the filing of the oath, there shall also be filed for each director an individual, schedule, or blanket surety bond at the expense of the district, in an amount determined by the board of not less than \$1000 each, conditioned upon the faithful performance of his/her duties as director. For the treasurer, there must be filed a corporate fidelity bond in an amount determined by the board of not less than \$5000, conditioned on the faithful performance of the duties of his/her office.

If any director fails to take the oath or furnish the bond within the period allowed, except for good cause shown, his/her office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

C.R.S. § 32-1-901

Are special district board members compensated for their time?

Each director may receive as compensation for his/her service, a sum not in excess of \$1,200 per year, payable not to exceed \$75 per meeting attended.

C.R.S. § 32-1-902(3)(a)(II)

Do term limits apply to special districts?

Yes, term limits apply to special district board members. Board members may not serve more than two consecutive four-year terms. In addition, there must be a four-year time gap before a previous board member can again run as a board candidate. The term limit requirement applies to terms commencing with the 1996 regular special district election.

Colorado State Constitution - Article XVIII, Section 11

Does time served as an appointee to the board count towards term limits?

Term limits only apply to full four-year terms. The time period beginning at the point a director is appointed as a board member to the next regular election when they must run for the position does not count towards the term limit requirements.

Attorney General Opinion No. 2000-2, February 9, 2000

How is the board of directors organized?

After taking the oaths and filing bonds, the board shall elect one of its members as chairman of the board and president of the special district, one of its members as a treasurer of the board and special district and a secretary who may be a member of the board. The secretary and the treasurer may be one person, but if such is the case, he/she shall be a member of the board. The board shall adopt a seal, and the secretary shall keep, in a well-bound book, a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees, and all corporate acts which shall be open to the inspection of all electors as well as to all other interested parties.

C.R.S. § 32-1-902

What are the specific duties of the treasurer?

The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the special district in permanent records. He/she shall file with the clerk of the court, at the expense of the district, a corporate fidelity bond in an amount determined by the board of not less than \$5000, conditioned on the faithful performance of the duties of his/her office.

C.R.S. § 32-1-902(2)

Can a person be a candidate for more than one special district at the same time?

Yes. The statute makes a specific exception for special district board members by stating that the statute shall not prohibit a candidate or elected official of any political subdivision from being a candidate or member of the board of directors of any special district or districts in which he or she is an eligible elector.

C.R.S. § 1-4-501(2)

What causes a vacancy on the board of directors?

A director's office shall be deemed vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

If for any reason a properly qualified person is not elected to a director's office by the electors as required at a regular election;

If a person who was duly elected or appointed fails, neglects or refuses to subscribe to an oath of office or to furnish the bond;

If a person who was duly elected or appointed ceases to be qualified for the office to which he/she was elected;

If a person who was duly elected or appointed is convicted of a felony;

If a court of competent jurisdiction voids the election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his/her right to appeal has been waived or otherwise exhausted;

If a person who was duly elected or appointed fails to attend three consecutive regular meetings of the board without the board having entered upon its minutes an approval for an additional absence or absences; except that such additional absence or absences shall be excused for temporary mental or physical disability or illness;

If the person who was duly elected or appointed dies during his term of office.

C.R.S. § 32-1-905

How are vacancies filled on the board of directors?

Any vacancy on the board shall be filled by appointment by the remaining director or directors, the appointee to serve until the next regular election, at which time, the vacancy shall be filled by election for any remaining unexpired portion of the term.

C.R.S. § 32-1-905(2)(a)

ELECTIONS GENERALLY

What is a regular election?

A regular election means the election on the Tuesday, succeeding the first Monday of May in every even-numbered year, held for the purpose of electing members to the boards of special districts and for the submission of both ballot questions and ballot issues.

C.R.S. § 32-1-103(17)

What is a special election?

A special election is any election called by the board of directors for submission of ballot questions, or other matters. The election shall be held on the first Tuesday after the first Monday in February, May, October or December, in November of even-numbered years or on the first Tuesday in November of odd-numbered years. Any special district may petition a district court judge who has jurisdiction in such district for permission to hold a special election on a day other than those specified here.

C.R.S. § 32-1-103(21)

Who is eligible to vote in a special district election?

An eligible elector is a person who, at the designated time and event is registered to vote in Colorado, and

Who has been a resident of the special district or the area to be included in the special district for not less than thirty days; or

Who, or whose spouse, owns taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district, whether the person resides in the district or not.

A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district shall be considered an owner.

For all elections that require ownership of real property or land, a mobile home or a manufactured home shall be deemed sufficient to qualify as ownership of real property or land for the purposes of voting.

A partnership, corporation or trust is not a “person” and therefore a person owning property through such a legal entity is not eligible to vote.

C.R.S. § 32-1-103(5) or 1-1-104(16)

What is taxable property?

Taxable real property means real or personal property, subject to general ad valorem taxes (property taxes).

C.R.S. § 32-1-103(22)

Do severed mineral rights, including natural gas, constitute taxable real and personal property and can someone who owns severed mineral rights, including natural gas, vote in a special district as a property owner?

Yes.

C.R.S. § 39-1-102(14)

What is a registered elector?

A registered elector is an elector (a person legally qualified to vote in the district) who has complied with the registration provisions of the C.R.S. Title 1 Election Code and who resides within or is eligible to vote in the jurisdiction of the political subdivision calling the election.

The registration provisions of C.R.S. Title 1 state that a person is qualified for registration if the person is eighteen years of age or older on the date of the election and who has the following qualifications:

- the person is a citizen of the United States; and
- the person has resided in this state and the precinct in which the person intends to register thirty days immediately prior to the election at which the person intends to vote.

If any provision of the Election Code requires the signing of any document by a registered elector, the person making the signature shall be deemed to be a registered elector if the person's name and address at the time of signing the document matches the name and address for the person on the registration document at the county clerk and recorder's office, and as it appears on the master elector list on file with the secretary of state.

C.R.S. § 1-2-101 & 1-1-104(35)

Can the owner of a condominium or time-share vote in a special district election?

If the property deed as recorded in the office of the county clerk and recorder or tax assessor, includes the name of the condominium owner, (not a corporation, partnership, trust, etc.) and that individual person is registered to vote in Colorado, they may vote.

C.R.S. § 32-1-103(5)

What is a "designated election official"?

The designated election official is the member of the governing body, secretary of the board, county clerk and recorder, or other person designated by the governing body as the person responsible for the running of the election.

C.R.S. § 1-1-104(8)

What is a property owner's list?

The list furnished by the county assessor showing each property owner within the district, as shown on a deed or contract of record

C.R.S. § 32-1-103(5)

What is the term of office for a special district board member?

The basic term of office is four years. A two-year term occurs when a four-year board position becomes vacant and is filled by appointment. The appointment is valid only until the next regular election. If there is a remaining balance to the original term, it will be for two years. Therefore, the position to be filled will be for a two-year term.

C.R.S. § 32-1-305.5 & 32-1-905

Does a special district candidate have to file a candidate affidavit form (Fair Campaign Practices Act – FCPA)?

A candidate in a special district election shall file the candidate affidavit form or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with C.R.S. § 32-1-804.3 if such form or letter

contains a statement that the candidate is familiar with the provisions of the FCPA this article, no later than the date established for certification of the special district's ballot (no later than 55 days before the election).

C.R.S. § 1-45-110 & 1-5-203(3)(a)

What is valid identification for presentation at an election?

- A valid driver's license;
- A valid identification card issued by the department of revenue;
- A valid United States passport;
- A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of the State of Colorado, or by any county, municipality, board, authority, or other political subdivision of Colorado;
- A valid pilot's license with a photograph of the eligible elector issued by the federal aviation or other authorized agency of the United States;
- A valid United States military identification card with a photograph of the eligible elector; or
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the elector.

Any of the above forms of identification that shows the address of the eligible elector shall be considered identification only if the address is in the state of Colorado.

C.R.S. § 1-1-104(19.5)

How long must the election materials be kept?

The designated election official shall be responsible for the preservation of any election records for a period of at least twenty-five months after the election or until such time has expired for which the record would be needed in any contest proceedings, whichever is later. Unvoted ballots may be destroyed after the time for a challenge to the election has passed.

C.R.S. § 1-7-802

NOTICE AND PREPARATION FOR ELECTIONS

How does a person become a candidate for the board of a special district?

Not less than seventy-five days or more than ninety days before a regular election, the designated election official shall provide notice by publication of a call for nominations for the election. The call shall state the special district director offices to be voted upon at the election, where a self-nomination and acceptance form may be obtained, the deadline for submitting the self-

nomination and acceptance form to the designated election official, and information on obtaining an absentee ballot.

Not less than sixty-seven days before the date of the regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by a registered elector as a witness to the signature of the candidate.

On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector. (See "Elections Generally" in this document.)

C.R.S. § 32-1-804.1 & 32-1-804.3

Any person who wishes to become a write-in candidate for any office in any election shall file an affidavit of intent stating that he or she desires the office and is qualified to assume its duties if elected. The affidavit shall be filed with the designated election official.

C.R.S. § 1-4-1101

How is "publication" defined?

Publication means printing one time, in one newspaper of general circulation in the political subdivision if there is such a newspaper, and, if not, then in a newspaper in the county in which the political subdivision is located. For a political subdivision with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the political subdivision, then one publication is required in a newspaper in each county in which the political subdivision is located and in which the political subdivision also has fifty or more eligible electors.

C.R.S. § 1-1-104(34)

How are polling places determined?

No later than twenty-five days before the election, the designated election official shall divide the jurisdiction into as many election precincts as he/she deems expedient for the convenience of eligible electors of the jurisdiction and shall designate the polling place for each precinct.

The county clerk shall maintain a list of owners or contact persons who may grant permission to political subdivisions to use locations for polling places. The clerk shall, upon request of the designated election official, provide a copy of the list or part of the list as requested by the election official.

C.R.S. § 1-5-102(1) & (3)

The polling places shall be in public locations wherever possible. A private location may be used only when no appropriate public location is available.

C.R.S. § 1.5.105(3)

What are the requirements for polling place signs?

Polling places shall be designated by a sign conspicuously posted at least twelve days before each election. The sign shall be substantially in the following form: "Polling place for precinct no. ..." The lettering on the sign and the precinct number shall be black on a white background. The letters and numerals of the title shall be at least four inches in height. In addition, the sign shall state the hours the polling place will be open and, if the polling place is not accessible for disabled electors, the location of the polling place for disabled electors.

C.R.S. § 1-5-106

What provisions must be made for disabled electors?

Each political subdivision shall establish not less than one polling place that is free of architectural barriers for disabled electors. Adequate parking shall be close to the polling place.

C.R.S. § 1-5-107

Must an election be held within the district boundaries?

No. If there are no appropriate polling place locations within the political subdivision conducting the election, a polling place may be designated outside of the political subdivision in a location that is convenient for the eligible electors of such political subdivision.

Secretary of State Rules - 5.2

When and how can an election be cancelled?

If the only matter before the electors in a nonpartisan election is the election of persons to office and if, at the close of business on the sixty-third day before the election, there are not more candidates than offices to be filled at the election, the designated election official, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.

C.R.S. § 1-5-108(1.5)

If the electors are to consider the election of persons to office and ballot issues or ballot questions, the election may be cancelled by the governing body only in the event that there are not more candidates than offices to be filled at the election and that all ballot issues and ballot questions have been withdrawn.

No election may be cancelled in part.

The governing body shall provide notice by publication of the cancellation of the election. A copy of the notice shall be posted at each polling place of the political subdivision, in the office of the designated election official, and in the office of the clerk and recorder for each county in which the political subdivision is located and for special districts, a notice shall be filed in the office of the division of local government. The governing body shall also notify the candidates that the election was cancelled and that they were elected by acclamation.

C.R.S. § 1-5-208(6)

If an election is cancelled, the notice and a copy of the resolution of cancellation shall be filed with the division of local government.

C.R.S. § 1-11-103

ELECTION JUDGES

What are the qualifications for an election judge?

The persons appointed as election judges, except those appointed as student election judges, shall certify in writing that they meet the following requirements:

They are registered electors who reside in the political subdivision, unless otherwise excepted, and are willing to serve;

They are physically and mentally able to perform and complete the assigned tasks;

They will attend a class of instruction concerning the tasks of an election judge prior to each election;

They have never been convicted of election fraud, any other election offense, or fraud; and

They are neither a candidate whose name appears on the ballot in the precinct that they are appointed to serve nor a member of the immediate family, related by blood or marriage to the second degree, of a candidate whose name appears on the ballot in the precinct that they are appointed to serve.

C.R.S. § 1-6-101(2)

How many judges are required for a special district election?

For nonpartisan elections, the designated election official shall appoint no less than two election judges to serve as polling place judges for each precinct to perform designated functions.

C.R.S. § 1-6-111(4)

What if you cannot find enough election judges who are registered electors who reside in the district?

If enough registered electors of the political subdivision are not available, then the appointing authority (designated election official) may appoint election judges who are registered electors of the state.

C.R.S. § 1-6-101(3)

What is the role of the supply judge?

The designated election official shall designate one election judge in each precinct as a supply judge. Prior to the election, the supply judge shall attend a special school of instruction held by the designated election official.

The supply judge shall coordinate the conduct of the election in the precinct. These responsibilities shall include receiving election supplies and equipment from the designated election official, delivering election supplies and equipment from the designated election official to the polling place, and returning all election supplies, election equipment and ballots to the designated election official once the election is concluded.

C.R.S. § 1-6-109.5(1) & (4)(a)

What is the compensation for election judges?

In all elections, each election judge serving in precincts shall receive not less than five dollars as compensation for services provided as judge at an election.

C.R.S. § 1-6-115(1)

CONDUCT OF ELECTIONS

Who may vote at special district elections?

The person must be an eligible elector and shall sign a self-affirmation provided by the election judge, that the person is an elector of the special district.

C.R.S. § 32-1-806

How are ballot questions and issues numbered on the ballot?

For elections not conducted in November and not coordinated with the county clerk and recorder, the ballot issue or question shall be identified by the name of the jurisdiction submitting the ballot issue or ballot question followed by a letter.

Secretary of State Rules - 5.3

For elections held in November or coordinated with the county, see Secretary of State Rules 6.4.2. outline the numbering process. (i.e. 4A-4Z for other political subdivisions greater than a county and 5A-5Z for ballot issues and questions that are wholly within a county.)

How is the order of candidates on the ballot determined?

The arrangement of the names shall be established by lot (i.e. putting all the names in a hat and having them drawn out by the designated election official) at any time prior to the certification of the ballot (no later than 55 days before the election). The designated election official shall notify the candidates of the time and place of the lot drawing for the ballot. The drawing shall be performed by the designated election official or a designee. The names shall be printed without political party designation.

C.R.S. § 1-5-406

What is the deadline for the printing of ballots?

The designated election official shall provide printed ballots for every election. The official ballot shall be printed and in the possession of the designated election official at least thirty days before the election.

C.R.S. § 1-5-406

The designated election official shall not print in connection with any name, any title or degree designating the business or profession of the candidate.

C.R.S. § 1-5-407(4)

What are coordinated elections and how are they conducted?

If more than one political subdivision holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the county clerk and recorder shall be the coordinated election official and shall conduct the election on behalf of all political subdivisions not using the mail ballot election procedures.

The political subdivisions for which the county clerk and recorder will conduct the coordinated election shall enter into an agreement with the county clerk and recorder for the county or counties in which the political subdivision is located concerning the conduct of the election. The agreement shall be signed no later than sixty days prior to the scheduled election. The agreement shall include, but not be limited to:

Allocation of responsibilities between the county clerk and recorder and the political subdivisions for the preparation and conduct of the coordinated election; and

Provision for a reasonable sharing of the actual costs of the coordinated election among the county and the political subdivision.

C.R.S. § 1-7-116(1) & (2)

What if an elector wants to vote and his/her name is not on either the registration list or the property owner's list?

The elector shall complete both the self-affirmation and the notice of perjury.

C.R.S. § 1-13-104

The Federal Help America Vote Act (HAVA) may impact this procedure in future elections. This document will be updated when the issue has been specifically addressed by state statute or regulations.

What is a watcher?

Candidates for office in nonpartisan elections, and proponents and opponents of a ballot issue, are each entitled to appoint one person to act as a watcher in

every polling place in which he/she is a candidate or in which the issue is on the ballot. The candidates or proponents and opponents shall certify the names of persons so appointed to the designated election official on forms provided by the official

C.R.S. § 1-7-107

What are the requirements to be a watcher?

Watchers shall take an oath administered by one of the election judges that they are eligible electors, that their name has been submitted to the designated election official as a watcher for this election, and that they will not in any manner make known to anyone the result of counting votes until the polls have closed.

Neither candidates nor members of their immediate families by blood or marriage to the second degree may be poll watchers for that candidate.

C.R.S. § 1-7-108

What are watchers allowed to do during an election?

Each watcher shall have the right to maintain a list of eligible electors who have voted, to witness and verify each step in the conduct of the election from prior to the opening of the polls through the completion of the count and announcement of the results, to challenge ineligible electors, and to assist in the correction of discrepancies.

C.R.S. § 1-7-108

Duly appointed watchers may observe the processing and counting of provisional, mail and absentee ballots.

Secretary of State Rules - 8.5

For mail or absentee processing, watchers may be present at each stage of the election including the receiving and bundling of the ballots received by the designated election official. Watchers may track the names of electors who have cast ballots by utilizing their previously obtained lists, but may not write down any ballot numbers or other identifying information about the electors.

Secretary of State Rules - 8.7

How long must election records be kept?

The designated election official shall be responsible for the preservation of any election records for a period of at least twenty-five months after the election or until time has expired for which the record would be needed in any contest proceedings, whichever is later. Unvoted ballots may be destroyed after the time for a challenge to the election has passed.

C.R.S. § 1-7-802

Under what conditions must the ballot and election materials be written in a language other than English?

The Federal Voting Rights Act (The Act) codifies the 15th Amendment of the United States Constitution guaranteeing that no person shall be denied the right to vote on account of race or color. In addition, the Act contains several special provisions that impose stringent requirements on “covered” jurisdictions in certain areas of the country.

Section 203 of the Federal Voting Rights Act mandates that a state or political subdivision must provide language assistance to voters if more than 5 percent of the voting-age citizens are members of a single-language minority group who do not “speak or understand English adequately enough to participate in the electoral process” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.

The Census Bureau Director has the responsibility to determine which states and political subdivisions are subject to the minority language assistance provisions of Section 203. Current census data is used to identify the geographic areas impacted. The determination of the director is published in the Federal Register.

As of the 2002 Census, the following Colorado counties are required by the Federal Voting Rights Act to provide all voting materials in English and the following languages: Alamosa (Spanish), Conejos (Spanish), Costilla (Spanish), Crowley (Spanish), Denver (Spanish), La Plata (American Ute Indian and American Navajo Indian), Montezuma (American Ute Indian and American Navajo Indian), Otero (Spanish), Rio Grande (Spanish), and Saguache (Spanish).

Federal Voting Rights Act

MAIL BALLOT ELECTIONS

What is a mail ballot election?

An election for which eligible electors may cast ballots by mail that involves only nonpartisan candidates or ballot issues and/or ballot questions.

C.R.S. § 1-7.5-103(4)

What makes up a mail ballot packet?

This is the packet of information provided by the designated election official to eligible electors in the mail ballot election. It includes the ballot, instructions for completing the ballot, a secrecy envelope/secrecy sleeve and a return envelope.

C.R.S. § 1-7.5-103(5)

What is the return envelope?

The envelope that is printed with spaces for the name and address of, and a self-affirmation to be signed by an eligible elector voting in a mail ballot election, that contains a secrecy envelope/secrecy sleeve and ballot for the elector, and that is

designed to allow election officials, upon examining the signature, name, and address on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

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 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 accordance with the provisions of the "Uniform Election Code of 1992".

C.R.S. § 1-7.5-103(7) & C.R.S. § 1-7.5-107(3)(b.5)(1)

If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope. The elector shall also be provided with specific instructions on the requirement to provide such identification.

Secretary of State Rules - 12.5.8

What is the secrecy envelope/secrecy sleeve?

The envelope or piece of paper used for a mail ballot election that contains the eligible elector's ballot for the election, and that is designed to conceal and maintain the confidentiality of the elector's vote until the counting of votes for that particular election.

C.R.S. § 1-7.5-103(8)

What is the process for conducting a mail ballot election?

The designated election official responsible for conducting an election that is to be a mail ballot election shall notify the Secretary of State no later than fifty-five days prior to the election. The notification shall include a proposed plan for conducting the mail ballot election, which may be based on the standard mail ballot election plan adopted by the Secretary of State.

The Secretary of State shall approve or disapprove the written plan for conducting a mail ballot election within fifteen days after receiving the plan and shall provide written notice to the affected political subdivision. (See the Secretary of State Rules - 12.3.2 and 12.3.3 for the items to be included in the mail ballot plan.)

C.R.S. § 1-7.5-105

Notice of the election is to be sent to the clerk and recorder of the county in which the election is to be held. The notice is to include the date by which the list of registered electors is to be submitted to the political subdivision by the clerk and recorder.

For multi-county political subdivisions, the notice sent to each clerk and recorder shall also include the names of all other counties in which the election will be held.

Secretary of State Rules - 12.3

Are there election judges in a mail ballot election?

The designated election official for the election may appoint an appropriate number of judges to receive the ballots after they are mailed, to handle “walk-in” balloting and absentee ballots at the sites designated for “walk-in” balloting, to check registrations, to inspect, verify, and duplicate ballots (i.e. recopy ballots that have been faxed in or damaged so that they will go through a voting machine) when necessary and to count the ballots and certify the results. (These judges are also compensated for their time for a minimum of five dollars, per C.R.S. 1-6-115(1).)

Secretary of State Rules - 12.2

If political subdivisions are coordinating mail ballot elections, what are the best methods to distinguish the individual subdivision’s ballots?

The mail ballots and return envelopes shall include distinctive markings or colors to identify political subdivisions when the colors or distinctive marking will aid in the distribution and tabulation of the ballots.

Secretary of State Rules - 12.5.1

What happens when a mail ballot is returned as undeliverable?

The designated election official shall not be required to re-mail the ballot packet.

Secretary of State Rules - 12.5.5

What if an elector registered to vote by mail and did not provide the proper ID upon registration?

The county clerk and recorder shall indicate on the list of registered voters requested by the designated election official those registered voters required to provide a copy of their identification.

Secretary of State Rules - 12.5.7

The designated election official shall require that the eligible elector submit a copy of his or her identification (See C.R.S.§ 1-1-104(19.5)), with the elector’s ballot in the return envelope.

Secretary of State Rules - 12.5.6

If the elector is required to provide his or her identification, the outside of the envelope shall be marked to identify such envelope. The elector shall also be provided with specific instructions on the requirement to provide such identification.

Secretary of State Rules - 12.5.8

What happens if the return envelope does not contain the proper identification for those electors required to do so?

The ballot shall be treated as a provisional ballot. The outside of the ballot shall be marked “provisional.” For non-partisan elections, the provisional ballot shall be verified and counted according to the Secretary of State Rules - 5.5.8 through 5.5.13. (For more information on the “provisional” balloting process, see page 27.)

Secretary of State Rules - 12.5.9

ABSENTEE VOTING

What is the last day to accept an application for absentee ballot?

The application for an absentee ballot must be received no later than the Friday immediately preceding the election, except that if the voter wants to receive the absentee ballot in the mail, the application must be filed no later than the close of business on the Tuesday immediately preceding the election.

C.R.S. § 1-8-104

What form should be absentee ballot follow?

The ballots shall be in the same form as other official ballots for the same election. On the stub of the absentee ballot shall be printed “Absentee Ballot No. A.V.....(number)” and such stubs shall be numbered consecutively, commencing with number 1.

C.R.S. § 1-8-101

What is the process for obtaining and submitting an absentee ballot application?

The application for an absentee ballot shall be made in writing or by fax, using the application form furnished by the designated election official or in the form of a letter that includes the applicant’s printed name, signature, residence address, mailing address if the applicant wishes to receive the absentee ballot by mail, and the date of birth.

The application for an absentee ballot shall be personally signed by the applicant; or in the case of the applicant’s inability to sign, the elector’s mark shall be witnessed by another person.

C.R.S. § 1-8-104

How does the registration verification of an absent elector occur?

Upon receipt of an application for an absentee ballot within the proper time, the designated election official shall examine the records of eligible electors to ascertain whether or not the applicant is eligible to vote as requested. If the applicant is eligible, the designated election official, either personally in the office

of the designated election official or by mail to the mailing address given in the application, shall deliver an official absentee ballot, a return envelope with information as to precinct and residence address as shown by the records in the office, and an instruction card.

C.R.S. § 1-8-106

How many absentee ballots can one individual deliver to the designated election official?

Five. The designated election official shall keep a list, to the extent possible, of all individuals who deliver more than five voted absentee ballots to the designated election official or the designated drop site for absentee ballots, which shall include the individual's mailing address.

The county clerk and recorder shall notify each individual on the list by letter that they have violated C.R.S. § 1-8-113 by delivering more than five absentee ballots to the designated election official.

Secretary of State Rules - 13.3 & 13.4

What is the process for delivery and replacement of absentee ballots?

The absentee ballot and other materials shall be delivered or mailed to the absentee elector within seventy-two hours after the receipt of the application, if the official ballots are then printed, or if not then printed, within seventy-two hours after the printed ballots are delivered to the designated election official. If the absentee ballot and other materials are mailed, the envelope shall be marked "DO NOT FORWARD." or by any similar statement that is in accordance with the United States postal service regulation. (Ballots must be printed thirty days before the election. C.R.S. § 1-5-406)

Upon a request by an eligible elector stating an emergency need the designated election official may authorize one or more deputies or may deputize a courier service to deliver the absentee ballot and return the ballot to the office of the designated election official.

The designated election official may issue a replacement absentee ballot if an eligible elector applied for an absentee ballot but did not receive it or if the elector spoiled the absentee ballot. An affidavit completed by either the elector or the designated election official shall give the reason for requesting a replacement absentee ballot and shall state that the original absentee ballot was not received or was spoiled, that the individual has not voted, and that the individual does not intend to vote at the election except by voting the replacement absentee ballot.

The ballot shall have the notation "Spoiled" entered in the poll book to indicate the original absentee ballot was not received or was spoiled, and the replacement absentee ballot number shall be entered in the absentee record. If

the original absentee ballot is returned to the designated election official after the issuance of the replacement absentee ballot, the original ballot shall be marked "Spoiled" and shall not be counted.

C.R.S. § 1-8-111

What language is required on a return absentee envelope?

The return envelope for the absentee 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 an absentee ballot; 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 accordance with the provisions of the "Uniform Election Code of 1992."

C.R.S. § 1-8-114

What if an elector registered to vote by mail and did not provide the proper ID upon registration?

The designated election official shall require that the eligible elector submit a copy of his or her identification as defined in Section 1-1-104(19.5), C.R.S., with the elector's ballot in the return envelope.

Secretary of State Rules - 13.5

The county clerk shall indicate on the list of registered voters requested by the designated election official those registered voters required to be identified.

Secretary of State Rules - 13.6

If the elector is required to provide his or her identification, the outside of the return envelope shall be marked to identify such envelope. The elector shall also be provided with specific instructions on the requirement to provide such identification.

Secretary of State Rules - 13.7

What happens if the return envelope does not contain the proper identification for those electors required to do so?

If the marked return envelope does not contain proper identification, the ballot shall be treated as a provisional ballot. The outside of the return envelope shall be marked "provisional." For non-partisan elections, the provisional ballot shall be verified and counted in accordance with Secretary of State Rules 5.5.8 through 5.5.13.

Secretary of State Rules - 13.8

CHALLENGES

Who is able to challenge a person's right to vote?

An election judge shall challenge any person intending to vote whom the judge believes is not an eligible elector. In addition, challenges may be made by watchers or any eligible elector of the district.

C.R.S. § 1-9-201

How is a challenge presented?

Each challenge shall be made by written oath, shall set forth the name of the person challenged and the basis for the challenge, and shall be signed by the challenger under penalty of perjury in the second degree. The election judge shall deliver all challenges and oaths to the designated election official at the time the poll books and other election papers are returned. The designated election official shall forthwith deliver all challenges, whether or not withdrawn, and all oaths to the district attorney for investigation and appropriate action. No oral challenge shall be permitted.

C.R.S. § 1-9-202

RECOUNTS

When is a recount required?

A recount of any election contest shall be held if the difference between the highest number of votes cast in that election contest and the next highest number of votes cast in that election contest is less than or equal to one-half of one percent of the highest vote cast in that election contest. A recount shall occur only after the canvass board certifies the original vote count.

C.R.S. § 1-10.5-101

How does a recount process proceed?

Each designated election official who conducts a recount shall follow the specific procedures outlined by the Secretary of State for the equipment used for the election.

If it appears, as evidenced by the abstract of votes cast, that a recount is required for any office, ballot question or ballot issue, the designated election official shall order a recount of the votes cast for the office, the ballot issue, or ballot question no later than the twenty-fifth day after the election. Any recount under this section shall be completed no later than the fortieth day. If the election is coordinated, the clerk and recorder shall order the recount.

Upon receipt of the notice of a recount by the designated election official or the county clerk, the Secretary of State shall prepare a letter that specifies the procedures to be used for the recount that shall be sent to the designated election official.

The purpose of a recount is to review the ballots to assure they were counted properly. Unless directed otherwise by the Secretary of State, all procedures of election night shall be followed as closely as possible during the recount, including an examination of the ballots.

The Secretary of State may have an official observer at every recount location.

Any candidate who is subject to the recount may be present and observe the recount at any recount location or designate one watcher to observe the recount at any recount location. Watchers must provide the election official with a certificate signed by the candidate.

Each candidate, his or her watcher, members of the media, and official observers may be present in the room when a recount is conducted. During the recount the candidate, watcher, members of the media, and official observers may not interfere with the recount process.

The recount board, as defined by the Secretary of State, and all candidates, watchers, members of the media and official observers shall take an oath that they will not convey the results of the recount until the process is complete and an official certification has been issued.

Candidates, watchers, members of the media and official observers who enter the recount room after the recount begins, must stay until the recount is complete. Anyone who must leave the recount room will not be allowed to re-enter the recount room without the specific consent or authorization of the designated election official.

All votes for all candidates in any race subject to a recount shall be counted.

Secretary of State Rules - 14.4.1 through - 14.4.5

C.R.S. §

What are the deadlines for conducting a recount?

For nonpartisan elections not coordinated by the county clerk and recorder, if it appears, as evidenced by the abstract of votes cast, that a recount is required for any office, ballot question or ballot issue, the designated election official shall order a recount of the votes cast for the office, the ballot issue or ballot question no later than the twenty-fifth day after the election. Any recount under this section shall be completed no later than the fortieth day after the election.

C.R.S. § 1-10.5-1-4

CERTIFICATES OF ELECTION AND ELECTION CONTESTS

What entities receive copies of the certificate of election results?

If an election is cancelled, the notice and copy of the resolution of cancellation shall be filed with the division of local government. The results of a special district election shall be certified to the division of local government within thirty days after the election.

What happens if there is a tie vote for directors?

If any two or more candidates tie for the highest number of votes for the same office and if there are not enough offices remaining for all candidates, the board of canvassers shall determine by lot the persons who shall be elected. Reasonable notice shall be given to the candidates who are involved of the time when the election will be determined.

What if there is a tie vote on a ballot question?

If any ballot question is approved by less than the majority of the votes cast, the ballot question shall be considered to have failed.

What are the causes of contest for a candidate election?

The election of any candidate to any office may be contested on any of the following grounds:

That the candidate elected is not eligible to hold the office for which elected.

That illegal votes were received or legal votes rejected at the polls in sufficient numbers to change the result of the election.

That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of an election.

That an election judge, canvass board, or member of a canvass board has committed malconduct, fraud, or corruption that changed the result of the election.

That, for any reason, another candidate was legally elected to the office.

What are the causes for contest of an election to determine a ballot issue or ballot question?

The result of any election to determine a ballot issue or a ballot question may be contested on any of the following grounds:

That illegal votes were received or legal votes were rejected at the polls in sufficient numbers to change the results of the election.

That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of the election;
or

That an election judge, canvass board, or member of a canvass board has committed misconduct, fraud, or corruption that changed the result of the election.

In addition, the result of any election to determine a ballot issue that includes approval of the creation of any debt or other financial obligation may be contested if the notice required by C.R.S. § 1-7-908 is not provided in accordance with that section or contains any material misstatement of the information required to be set forth in the notice.

C.R.S. § 1-11-201

Who may contest an election?

The election of any candidate or the results of an election on any ballot issue or ballot question may be contested by any eligible elector of the political subdivision.

C.R.S. § 1-11-202

What is the decision-making body for nonpartisan officers, ballot issue and ballot question election contests for nonpartisan elections?

Contested election cases of nonpartisan officers and ballot issues and ballot questions shall be tried and decided by the district court for the county in which the contest arises. If a political subdivision is located in more than one county, the district court of either county may take jurisdiction.

C.R.S. § 1-11-212

RECALL PROCESS

What are the limitations on recalling an elected official?

No recall petition shall be circulated or filed against any elected officer until the officer has actually held office for at least six months following the last election.

After one recall petition and election, no further petition shall be filed against the same nonpartisan officer during the term for which the officer was elected, unless the petitioners signing the petition equal one and one-half times the number of signatures required on the first petition filed against the same officer, until one year has elapsed from the date of the previous recall election.

No election petition shall be circulated or filed against any elected officer whose term will expire within six months.

C.R.S. § 1-12-102

How is a recall initiated?

Eligible electors of a political subdivision may initiate the recall of an elected official by signing a petition that demands the election of a successor to the officer named in the petition. The petition shall contain a general statement consisting of two hundred words or less, stating the ground or grounds on which

the recall is sought. The statement is for the information of the electors who shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of the ground or grounds assigned for the recall. The ground or grounds shall not be open to review.

C.R.S. § 1-12-103

How many signatures are required for a petition for nonpartisan officers?

A petition to recall any other nonpartisan officer shall be signed by three hundred eligible electors of the political subdivision who are entitled to vote for a successor to the incumbent sought to be recalled or forty percent of the eligible electors of the political subdivision at the time the form of the petition is approved, whichever is less.

C.R.S. § 1-12-106

Who may circulate the recall petition?

Only an eligible elector may circulate a recall petition.

C.R.S. § 1-12-108(6)(a)

Who is the petition filed with?

For all nonpartisan elections, the petition shall be filed with the district court in the county in which the political subdivision was organized. The court shall then appoint a designated election official to certify the sufficiency of the petition and call and conduct the election.

C.R.S. § 1-12-107(4)

ELECTION OFFENSES

What do you do if you believe an election offense has occurred?

Any person may file an affidavit with the district attorney stating the name of any person who has violated any of the provisions of the election code and stating the facts that constitute the alleged offense. Upon the filing of such affidavit, the district attorney shall forthwith investigate, and if reasonable grounds appear therefore, he shall prosecute the violator.

The attorney general shall have equal power with district attorneys to file and prosecute information of complaints against any persons for violating any of the provisions of the election code.

C.R.S. § 1-13-101

TABOR RELATED ISSUES

For special districts, when can a TABOR related ballot issue be put on the ballot?

In May of even-numbered years and November of every year.

Section 20 (3) (a) of Article X of the Colorado Constitution

What if there is a tie vote on a TABOR ballot issue?

If any ballot issue or ballot question is approved by less than the majority of the votes cast, the issue or ballot question shall be considered to have failed.

C.R.S. § 1-11-102.5

What is the TABOR notice?

This is the notice that is required by section 20 (3) (b) of article X of the state constitution and comprises the material between the notice title and the conclusion of the summary of comments. (See this portion of the constitution for the details required of the notice.)

C.R.S. § 1-1-104

What happens to the comments received for a TABOR ballot issue?

All comments filed in writing shall be received and kept on file with the designated election official for the political subdivision submitting the ballot issue. However, only those filed by persons eligible to vote in the political subdivision submitting the ballot issue to its electors must be summarized in the ballot issue notice. The filed comments shall be retained by the designated election official as election records.

To be summarized in the ballot issue notice, the comments shall address a specific ballot issue and shall include a signature and an address where the signatory is registered to vote and shall be filed with the designated election official for the political subdivision.

Since section 20(3)(b)(v) of article X of the state constitution requires that comments pertaining to a ballot issue be filed by forty-five days before the election and since such day is always a Saturday, all comments shall be filed by the end of the business day on the Friday before the forty-fifth day before the election.

C.R.S. § 1-7-901

Who prepares the fiscal information required in the TABOR notice?

A governing body submitting a referred measure, or its designee shall be responsible for providing to its designated election official the fiscal information that must be included in the ballot issue notice. For political subdivisions, the governing body shall be the board that authorized submission of the ballot issue to the electorate.

C.R.S. § 1-7-902

Who prepares the written comments?

For referred measures, the designated election official shall summarize the filed comments in favor of and in opposition to the ballot issue for the ballot issue notice. If no comments are filed in opposition to or in support of a ballot issue, the designated election official shall not prepare any summaries and shall state

substantially the following in the ballot issue notice where the summary or summaries would appear: “No comments were filed by the constitutional deadline.”

C.R.S. § 1-7-9023

The designated election official or the official’s designee for a political subdivision conducting an election in November shall prepare and deliver to the county clerk and recorder for the county or counties in which the political subdivision is located no later than forty-two days before the election the full text of any required ballot notices.

C.R.S. § 1-7-904

How are the TABOR notices prepared?

For November elections, the county clerk and recorder shall be responsible for placing the ballot issue notices received from the various political subdivisions participating in the election in the proper order in the ballot issue packet.

The designated election officials of overlapping political subdivisions conducting an election other than in November shall confer concerning the preparation of the ballot issue notice no later than forty days prior to the date of the election.

C.R.S. § 1-7-905

What is the form of the TABOR notice?

The ballot issue notice shall begin with the words “All registered voters” and shall end at the conclusion of the summary of comments. See section 20 of article X of the state constitution for the financial information that must be included in the body of the notice.

Ballot issue notices are not election materials that must be provided in a language other than English.

C.R.S. § 1-7-905.5

What are the mailing requirements of the TABOR notices?

For November elections, the county clerk and recorder as coordinated election official shall mail the ballot issue notice packet to each address of one or more active registered electors who reside in the county or portions of the county in which registered voters of those districts submitting ballot issues resides.

The designated election official for the various political subdivisions shall be responsible for mailing the required notice to each address of one or more active registered electors who do not reside within the county or counties where the political subdivision is located.

The political subdivisions shall by agreement, in a form substantially as provided in C.R.S. § 1-7-116 and 1-7-905, provide for mailing of any required ballot issue notice package for an election conducted other than in November.

C.R.S. § 1-7-906

PROVISIONAL BALLOTS

What is a provisional ballot?

GENERAL BACKGROUND: There is no “provisional ballot” per se. Provisional balloting refers to the processing of a ballot that has been voted by a voter who either during the process of registration did not provide identification, or is unable to present his/her identification at a polling place. Provisional balloting is also involved in the absentee and mail balloting processes.

For absentee and mail ballot processes, the designated election official will have received from the county clerk and recorder a list of registered voters. That list will be “tagged” to indicate those electors that registered to vote without presenting identification. For both processes, the voter is required to provide a copy of the approved identification when returning his/her ballot. The absentee ballot package and the mail ballot packet will provide written instruction on these requirements. In addition, both return envelopes are specially marked to indicate that the voter is required to include a copy of the approved identification. (See “Absentee Voting” (See page 17) and “Mail Ballot Voting” (see page 14) sections in this document).

How does provisional balloting apply to a polling place election?

For polling place elections, a voter, after having executing the self-affirmation form, shall present identification. The following is a list of the approved identification documents:

- A valid driver’s license;
- A valid identification card issued by the department of revenue;
- A valid United States passport;
- A valid employee identification card with a photograph of the eligible elector issued by any branch, department, agency, or entity of the United States government or of the State of Colorado, or by any county, municipality, board, authority, or other political subdivision of Colorado;
- A valid pilot’s license with a photograph of the eligible elector issued by the federal aviation or other authorized agency of the United States;
- A valid United States military identification card with a photograph of the eligible elector; or
- A copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the election.

Any of the above forms of identification that shows the address of the eligible elector shall be considered identification only if the address is in the State of Colorado

C.R.S. § 1-1-104

If the voter cannot provide adequate proof of identification, he/she shall vote a provisional ballot.

Prior to voting a provisional ballot, the elector must complete and sign a provisional ballot affidavit. The instructions for completing the provisional ballot affidavit and the provisional ballot shall be printed on the provisional ballot envelope.

Secretary of State Rules - 26.2

Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot shall be secured and deposited in a ballot container. All provisional ballots voted shall remain sealed in their envelopes for return to the designated election official.

The provisional ballot envelope shall be printed with instructions on the voting and handling of provisional ballots drafted by the Secretary of State

C.R.S. § 1-9-301(2)(3)

The election supplies provided to the supply judge of each polling place shall include an adequate number of provisional ballot envelopes that have printed on the outside the provisional affidavit as provided in C.R.S. § 1-9-304.5.

Secretary of State Rules - 5.5.3

The signature and date on the provisional ballot affidavit shall remain on the outside of the envelope.

Secretary of State Rules - 5.5.4

The provisional ballot affidavit envelope must be uniform in color and size as to differentiate it from other forms or affidavits.

Secretary of State Rules - 5.5.5

The provisional ballot affidavit envelope shall be numbered to correspond to the number of the provisional elector's name in the poll book, and the word "provisional" shall be marked on the ballot. The word "provisional" shall be marked on the poll book next to the voter's name.

Secretary of State Rules - 5.5.6 & 26.6

How are provisional ballots verified and counted?

The verification and counting of all provisional ballots shall be completed prior to the certification of the official abstract of votes cast in the election by the canvass board.

Secretary of State Rules - 5.5.8

Votes cast by provisional ballots shall not be included in any unofficial results reported except as part of the official canvass.

Secretary of State Rules - 26.11

A board appointed by the designated election official shall verify all provisional ballots (provisional ballot board). This board can be made up of the election judges used in the election. The designated election official shall also determine the time that provisional processing begins. The designated election official or designee shall complete preliminary verification without opening the ballot. A board appointed by the designated election official and recorder shall open all approved provisional ballot envelopes and proceed with the counting process utilizing verification information provided by the designated election official. However, all rejected provisional ballots shall be preserved for 25 months without opening the envelopes.

Secretary of State Rules - 26.7

Verification of an elector's eligibility to have their provisional ballot counted shall be limited to the following databases:

The local election office voter registration database, also confirming in this database that an absentee ballot has not been requested and the voter is not tagged for ID.

The Secretary of State's voter registration database.

The Department of Motor Vehicles database for proof of voter registration.

Secretary of State Rules - 26.8

Provisional ballots must be segregated, counted separately and kept separated from all other ballots.

Secretary of State Rules - 26.9

If twenty-five or more provisional ballots have been cast and counted, the results shall be reported on the "Judges Certificate of Election Returns" as one total. If less than twenty-five provisional ballots have been cast and counted, the results shall be included along with the absentee ballots counted in the election.

Secretary of State Rules - 5.5.10

A copy of the provisional ballot affidavit shall be provided to the county clerk and recorder of the county of the elector's residence and shall constitute a voter registration for future elections.

Secretary of State Rules - 5.5.12

The provisional ballot shall not be counted if any of the following is true:

The elector was not registered by the deadline in the State of Colorado.

The affidavit was not signed.

An elector's absentee ballot is returned prior to the provisional ballot.

Secretary of State Rules - 26.12

Recount procedures for provisional ballots shall be the same as those recount procedures for absentee ballots as directed by the Secretary of State.

Secretary of State Rules - 26.13

A log must be kept for audit purposes of each provisional ballot voted, each provisional ballot counted and each provisional ballot rejected.

Secretary of State Rules - 26.14

The reason for accepting or rejecting a provisional ballot shall be designated on the provisional ballot envelope and the log by one of the following codes:

Acceptance Codes:

OK – Reviewed and countable; all criteria met and ballot will be counted.

Rejection Codes

ANS – Affidavit not signed.

INC – Required information is incomplete.

NPR – Elector not previously registered; elector indicated registration in another Colorado county, but that county does not show a record of voter's registration.

EE – Provisional ballot is empty.

ID – Required identification was not provided and the voter record was not found in any of the three databases.

Secretary of State Rules - 26.15

How can a voter find out if his/her provisional vote ended up being counted?

For any election held after January 1, 2004, in which a provisional ballot is voted, the county clerk and recorder or designated election official shall establish a system allowing a voter who cast a provisional ballot to discover whether the ballot was counted and, if the ballot was not counted, the reason the ballot was not counted. The system shall provide access to this information at no cost to the voter by toll-free telephone call, Internet website, or other suitable medium in accordance with the "Help America Vote Act of 2002." Information about a provisional ballot shall be available only to the voter who cast the ballot.

C.R.S. § 1-9-306