
ELECTIONS: QUICK REFERENCE GUIDE



SPECIAL DISTRICT ASSISTANCE

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INTRODUCTION

The Department of Local Affairs (DOLA) provides a copy of the Special District Election Code to each special district in every even year. Within that document, DOLA includes sample election forms, a calendar and simplified judges instructions.

For your convenience, the following is a quick reference sheet of key information regarding elections. All citations in parenthesis refer to the Colorado Revised Statutes (C.R.S.). The following is a brief review and is not to be construed as legal advice.

For more information or for more DOLA technical assistance publications see the department's web site at www.dola.colorado.gov and click on Data, Information and Publications.

The following are some of the more important topics relative to special districts to keep in mind:

- Elections including ballot issues (TABOR related spending and revenue issues) are conducted only in May of even-numbered years and any November. If the election is not a coordinated election, it must be conducted as a mail ballot election.
- Elections conducted in November must be coordinated by the county clerk and recorder unless the district conducts a mail ballot election.
- The designated election official is determined by the board of directors.
- The polling place in any election may not necessarily be within the boundaries of your district.
- An elector must be registered to vote at least 29 days before the election date.

GENERAL LEGAL AUTHORITY

Title 32 Special District Elections are governed by C.R.S., Title 1, The Uniform Election Code, and C.R.S. Title 32, The Special District Act, Article 1-Part 8. **Note that special district elections are considered “nonpartisan”.** Throughout The Uniform Election Code, there will be procedural distinctions made between “partisan” and “nonpartisan” elections that will be important to take into consideration.

Certain types of elections; a mill levy increase (C.R.S. § 29-1-302(3)); an inclusion (C.R.S. § 32-1-401); consolidation (C.R.S. § 32-1-601); exclusion within municipalities (C.R.S. § 32-1-502); or dissolution (C.R.S. § 32-1-701), are bound by differing or additional requirements detailed in other sections of Title 32.

Special districts organized under Title 32-Article 1 include the following: ambulance, fire protection, forest improvement, health assurance, health service, mental health care service, metropolitan, park and recreation, sanitation, water, water and sanitation, and tunnel districts (C.R.S. § 32-1-103)

Districts not organized under Title 32-Article 1 may have their own statutorily decreed election requirements. These requirements will be outlined in the specific district's statutory authorization.

Definitions of words and phrases concerning elections in Title 32-Article 1 districts are defined in C.R.S. § 1-1-104 and C.R.S. § 32-1-103. Be sure to review the definitions.

GENERAL INFORMATION CONCERNING ELECTIONS

"Eligible Elector" means a person who at the designated time or event, is registered to vote in the State of Colorado **and**, (1) who has been a resident of the special district or the area to be included in the special district for not less than 30 days; **or** (2) 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 said person resides within the special 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.

C.R.S. § (32-1-103(5)(a)(I)(II)(b))

For nonpartisan elections other than coordinated elections in November, not less than 25 days prior to the election the board shall establish **polling places**. The designated election official, the county clerk and recorder, and the board of county commissioners are to coordinate the designated polling places. Whenever possible, the polling places shall be the same as those designated by the county for partisan elections.

C.R.S. § 1-5-102

An elector may vote by **mail-in ballot** according to the requirements of C.R.S. § 1-8-101 et seq. **Requests for mail-in voter ballots** may be made in writing or by FAX using the application form furnished by the designated election official or in the form of a letter, which includes the applicant's signature, residence address and date of birth. The application for a mail-in ballot shall be filed with the designated election official of the district 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.

C.R.S. § 1-8-103

No later than the 40th day preceding the date of a scheduled election the designated election official shall **order the registration records**. The designated election official may order a complete list of the registered electors as of the 30th day prior to the election with a supplemental list provided on the 20th day, or the designated election official may order a complete list as to the 20th day prior to the election. The order for the list may be canceled and the county clerk has not already prepared the list. These

lists shall substitute for the original registration record. Costs for the lists shall be assessed by the county clerk and recorder and paid by the district holding the election. The fee for furnishing the lists shall be no less than \$25 for the entire list or no more than one cent for each name contained on the registration lists, whichever is greater.

C.R.S. § 1-5-303(1)(3)(4)

No later than the 40th day preceding the election, the designated election official shall order the **property owners list**. The county assessor shall certify and deliver an initial list of all recorded owners of the property within the district no later than 30 days before the election. A **supplemental list** shall be provided no later than 20 days before the election and shall contain the names and addresses of all recorded owners who have become owners within the period since the initial property owners' list was provided. The cost for the lists shall be assessed by the county assessors and paid by the district holding the election. The fee for furnishing the lists shall be no less than \$25 for both lists nor more than one cent for each name contained on the lists, whichever is greater.

C.R.S. § 1-5-304

The persons nominated as **election judges** must meet the following qualifications:

- Registered electors who reside in the political subdivision, unless otherwise excepted, and are willing to serve;
- Physically and mentally able to perform and complete the assigned tasks;
- Will attend a class of instruction concerning the tasks of an election judge prior to each election;
- Have never been convicted of election fraud, any other election offenses, or fraud and
- Neither a candidate whose name appears on the ballot nor a member of the family of a candidate.

If enough election judges who reside in the political subdivision are not available, then the appointing authority may waive the residence requirement for election judges and may appoint election judges who reside outside the districts.

C.R.S. § 1-6-101

Candidates for office, and proponents and opponents of a ballot issue, are entitled to appoint one person to act as a **watcher** in every polling place in which they are a candidate or in which the issue is on the ballot. The candidates or proponents and opponents shall certify the names of persons appointed to the designated election official on forms provided by the election official. Watchers must be qualified electors.

C.R.S. § 1-7-107, 108

All **polls shall be opened** continuously from 7:00 a.m. until 7:00 p.m. on Election Day. The polls shall remain open after 7:00 p.m. until every eligible elector who was at the polling place at or before 7:00 p.m. has been allowed to vote. Any person arriving after 7:00 p.m. shall not be entitled to vote. A proclamation shall be made by one of the judges that the polls are open, and, thirty minutes before the closing of the polls a **proclamation** shall be made that the polls will close in thirty minutes.

At least 15 days before any election, the board shall appoint one of its members and one other eligible elector of the district to assist the designated election official in the **survey of returns**. This group constitutes the **board of canvassers**. This board is responsible for the survey of returns for its election. The returns of coordinated elections may be surveyed by the county board of canvassers or by a separate board of canvassers, at the option of the board. The returns of all elections shall be made to the designated election official. No later than 7 days after the election, the canvassers shall meet, survey the returns, issue a certified statement of results, and make out abstracts of votes for each office.

C.R.S. § 1-10-201(1)(a), 202, 203(1)

Immediately after the **abstract of votes** for each office has been prepared and after any required oath and bond is filed, the designated election official shall notify each of the persons who were elected of the votes cast for him/her and notify the board of directors of the votes for and against each ballot issue and ballot question.

C.R.S. § 1-11-103

After the votes have been counted by the judges and the ballots are sealed in the ballot box, all the **election materials** including the certificate of returns, the poll book, the affidavits, the registration and property owners' lists, and all other materials must be returned to the designated election official who will sign a receipt.

C.R.S. § 1-7-701

The designated election official shall be responsible for the preservation of any election records for a period of at least 25 months after the election, or until the 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

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 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. 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 14th day after the election. Any recount shall be completed no later than the 30th day after the election.

C.R.S. § 1-10.5-102 and 104

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

C.R.S. § 1-11-212

Election Offenses are investigated by the **district attorney** upon the filing by any person of an affidavit with the district attorney stating the name of any persons who has **violated any of the election code** and stating the facts that constitute the alleged offense. Upon the filing of such affidavit, the district attorney shall investigate, and, if reasonable grounds appear, he/she shall prosecute the violator.

C.R.S. § 1-13-101

REGULAR ELECTIONS

Special Districts must hold **regular elections** on the first Tuesday after the first Monday of May in even-numbered years, unless the election is formally canceled dependent on specific criteria.

C.R.S. § 1-1-104(42) and 32-1-103(17)

Regular Elections are for the **purpose of electing directors** to the Board and for the submission of other ballot issues and questions, if any. Terms are for four years.

C.R.S. § 1-1-104(42), 32-1-103(17), 305.5(3)

Vacancies on the board are filled by appointment by the board. An appointment is valid only until the next regular election at which time the remaining unexpired portion of the term must be filled by election. This may result in a two-year (partial) term being up for election at the next regular election.

C.R.S. § 1-12-207(1) and 32-1-905(2)

Regular Elections must be **publicized** by:

- Not less than 75 days nor more than 90 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 which offices will be voted upon, where a **self nomination and acceptance form** may be obtained, the deadlines for submitting the self nominations and acceptance form to the designated election official, and information on obtaining a mail-in ballot.

C.R.S. § 32-1-804.1

- The designated election official, at least 10 days prior to the election shall **provide notice by publication of the election**. The notice shall be **published in at least one newspaper** having general circulation in the county. The designated election official shall retain a copy of the notice as a record for public inspection for two years or until any election contest is decided, whichever is later. The designated election official of each district shall also mail a notice of the election to the county clerk and recorder. In addition, the designated election official shall post the notice of the election at least 10 days prior to the election and until 2 days after the election in a conspicuous place in their office.

C.R.S. § 1-5-205

- The board **may** mail notice (a voter information card) to each household where one or more active eligible electors reside no later than 15 days in advance of the election. If a ballot issue notice is mailed the voter information card may be included in the ballot issue notice.

C.R.S. § 1-5-206(2)(a)

Any person who wishes to be a **write-in candidate** 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, by the close of business on the 64th day before the election.

C.R.S. § 1-4-1101(1) and 1-4-1102(2)

If, at the close of business on the 63rd day before the election, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent to be a write-in candidate, the designated election official, if instructed by resolution of the board, shall **cancel** the election and **declare the candidates elected**. If the board does not authorize the designated election official to cancel the election, it will do so, in the same manner.

C.R.S. § 1-5-208(1.5)

Notice of Cancellation must be:

- Filed with the Division of Local Government;
- Published to inform the electors;
- Posted at each polling place, in the office of the designated election official and
- Posted in the office of the clerk and recorder of each county the district is located.

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)

SPECIAL ELECTIONS

Special Elections can be held on the first Tuesday after the first Monday of February, May, October, December, and in November of even-numbered years and the first Tuesday of November of odd-numbered years. **TABOR ballot issues are only permitted in November of every year and at the district's regular election (May of even-numbered years).** With the exception of an organizational election, a special election may not be held to elect directors. A court order may establish different election dates in limited circumstances.

C.R.S. § 1-1-104(46) and 32-1-103(21)

COORDINATED ELECTIONS

If more than one political subdivision (including special districts) holds an election on the same day in November and the eligible electors for each election are the same or the boundaries overlap, the **county clerk and recorder shall be the coordinated election official** and shall conduct the elections on behalf of all political subdivisions (districts) that are not utilizing the mail ballot procedure.

C.R.S. § 1-7-116(1)

The district 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 district is located concerning the conduct of the coordinated election. The agreement shall be signed no less than 70 days prior to the scheduled election. The agreement shall include but not be limited to the following:

- Allocation of responsibilities between the county clerk and recorder and the district for the preparation and conduct of the coordinated election; and
- Provision for a reasonable sharing of the actual cost of the coordinated election among the county and district.

The district must notify the county clerk and recorder by one hundred days before the election, if it has taken formal action (by resolution) to participate in an election that will be coordinated by the county clerk and recorder.

C.R.S. § 1-7-116(2)(a), (b)

For November coordinated elections, the **early voter's polling place** shall be opened 15 days before the election and shall be open during regular business hours.

C.R.S. § 1-8-202

No later than 42 days before an election in November, a district's ballot issue notice (TABOR) shall be delivered to the county clerk and recorder, whether the district participates in a coordinated election or conducts an independent mail ballot election. It shall be the responsibility of the county clerk and recorder to mail the required notices or notice package.

C.R.S. § 1-7-904

In **May of even-numbered years**, the designated election officials of **overlapping special districts** conducting an election shall meet concerning the preparation of the ballot notice not less than 40 days prior to the date of the election.

C.R.S. § 1-7-905(2)

MAIL BALLOT ELECTIONS

If the district desires to hold a **mail ballot election**, it may do so following approval of a plan submitted to the Secretary of State at least 65 days prior to the regular election and 55 days prior to any other election.

C.R.S. § 1-7.5-105 (1), SOS Rule 12.3.2

The **secretary of state shall approve or disapprove** the written plan for conducting a mail ballot election within twenty-five days of receiving the plan (for district elections).

C.R.S. § 1-7.5-105

TABOR ISSUES

All comments for or against a TABOR ballot issue shall be filed by the end of the business day on the Friday before the 45th day before the election. Petition representatives who are required to summarize comments in favor of their petition shall submit the summary, in typewritten form, to the designated election official, at least 43 days before the election.

C.R.S. § 1-7-901, 903

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 in the notice that “No comments were filed by the constitutional deadline.”

C.R.S. § 1-7-903

No later than 20 days before an election, a special district submitting a ballot issue concerning the creation of any debt or other financial obligation at an election in the district, shall post notice on the district’s website or, if the district does not maintain a website, at the district’s chief administrative office. The required language of the notice is detailed in section 1-7-908, C.R.S.

C.R.S. § 1-7-908

OATHS AND BONDS

Each director, **within thirty 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 that he or she will perform the duties of his or her office as required by law and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto.

When an election is cancelled in whole or in part, 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 county clerk and recorder, by the clerk of the court, by any person authorized to administer oaths in this state, or by the chairman of the board and shall be filed with the clerk of the court and the division.

At the time of the filing of said oath, there shall also be filed for each director an **individual, schedule, or blanket surety bond** at the expense of the special district, in an amount determined by the board of **not less than one thousand dollars each**, conditioned upon the faithful performance of his duties as director.

If any **director fails to take the oath or furnish the requisite bond within the period allowed**, except for good cause shown, his **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 (1), (2), (3)