

HB1015_L.014

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee_____
DateCommittee on State, Veterans, & Military Affairs.

After consideration on the merits, the Committee recommends the following:

HB09-1015 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute the following:

3 "SECTION 1. 1-4-101 (1), Colorado Revised Statutes, is
4 amended to read:

5 **1-4-101. Primary election nominations made.** (1) EXCEPT AS
6 PROVIDED IN SECTION 1-4-104.5, a primary election shall be held at the
7 regular polling places in each precinct on the second Tuesday of August
8 in even-numbered years to nominate candidates of political parties to be
9 voted for at the succeeding general election. Except as provided by
10 section 1-4-1304 (1.5), only a major political party, as defined in section
11 1-1-104 (22), shall be entitled to nominate candidates in a primary
12 election.

13 **SECTION 2.** Part 1 of article 4 of title 1, Colorado Revised
14 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
15 read:

16 **1-4-104.5. Primary election canceled - when.** (1) IF, AT THE
17 CLOSE OF BUSINESS ON THE SIXTIETH DAY BEFORE THE PRIMARY ELECTION,
18 THERE IS NOT MORE THAN ONE CANDIDATE FOR ANY POLITICAL PARTY
19 WHO HAS BEEN NOMINATED IN ACCORDANCE WITH THIS ARTICLE OR WHO
20 HAS FILED A WRITE-IN CANDIDATE AFFIDAVIT OF INTENT PURSUANT TO
21 SECTION 1-4-1101 FOR ANY OFFICE ON THE PRIMARY ELECTION BALLOT,
22 THE DESIGNATED ELECTION OFFICIAL MAY CANCEL THE PRIMARY ELECTION



1 AND DECLARE EACH CANDIDATE THE PARTY NOMINEE FOR THAT OFFICE AT
2 THE GENERAL ELECTION. THE NAME OF EACH NOMINEE SHALL BE PRINTED
3 ON THE OFFICIAL BALLOT PREPARED FOR THE ENSUING GENERAL ELECTION.

4 (2) IF A MAJOR POLITICAL PARTY HAS MORE THAN ONE CANDIDATE
5 NOMINATED FOR ANY OFFICE ON THE PRIMARY ELECTION BALLOT, THE
6 PRIMARY ELECTION SHALL BE CONDUCTED AS PROVIDED IN SECTION
7 1-4-101.

8 (3) IF, AT THE CLOSE OF BUSINESS ON THE SIXTIETH DAY BEFORE
9 THE PRIMARY ELECTION, THERE IS NOT MORE THAN ONE CANDIDATE FOR
10 EACH MAJOR POLITICAL PARTY WHO HAS BEEN NOMINATED IN
11 ACCORDANCE WITH THIS ARTICLE FOR ANY OFFICE ON THE PRIMARY
12 ELECTION BALLOT AND A MINOR POLITICAL PARTY HAS MORE THAN ONE
13 CANDIDATE NOMINATED FOR ANY SUCH OFFICE, THE PRIMARY ELECTION
14 SHALL BE CONDUCTED AS PROVIDED IN SECTION 1-4-101 FOR THE
15 NOMINATION OF THE MINOR POLITICAL PARTY CANDIDATE ONLY.

16 **SECTION 3.** 1-7.5-103 (4), Colorado Revised Statutes, is
17 amended to read:

18 **1-7.5-103. Definitions.** As used in this article, unless the context
19 otherwise requires:

20 (4) "Mail ballot election" means an election for which eligible
21 electors may cast ballots by mail and in accordance with this article in A
22 PRIMARY ELECTION OR an election that involves only nonpartisan
23 candidates or ballot questions or ballot issues.

24 **SECTION 4.** 1-7.5-104 (2), Colorado Revised Statutes, is
25 amended to read:

26 **1-7.5-104. Mail ballot elections - optional.** (2) Notwithstanding
27 the provisions of subsection (1) of this section, a mail ballot election shall
28 not be held for:

29 (a) Elections or recall elections that involve partisan candidates,
30 EXCEPT FOR PRIMARY ELECTIONS;

31 (b) Elections held in conjunction with, or on the same day as, a
32 primary or congressional vacancy election, UNLESS THE PRIMARY



1 ELECTION IS CONDUCTED AS A MAIL BALLOT ELECTION.

2 **SECTION 5.** 1-7.5-105 (2), Colorado Revised Statutes, is
3 amended, and the said 1-7.5-105 is further amended BY THE
4 ADDITION OF A NEW SUBSECTION, to read:

5 **1-7.5-105. Preelection process.** (1.5) NOTWITHSTANDING THE
6 PROVISIONS OF SUBSECTION (1) OF THIS SECTION, IF A PRIMARY ELECTION
7 IS CONDUCTED AS A MAIL BALLOT ELECTION PURSUANT TO THIS ARTICLE,
8 THE DESIGNATED ELECTION OFFICIAL SHALL NOTIFY THE SECRETARY OF
9 STATE NO LATER THAN ONE HUNDRED TWENTY DAYS PRIOR TO THE
10 ELECTION. THE NOTIFICATION SHALL INCLUDE A PROPOSED PLAN FOR
11 CONDUCTING THE MAIL BALLOT ELECTION, WHICH MAY BE BASED ON THE
12 STANDARD PLAN ADOPTED BY THE SECRETARY OF STATE.

13 (2) (a) The secretary of state shall approve or disapprove the
14 written plan for conducting a mail ballot election, in accordance with
15 section 1-7.5-106, within fifteen days after receiving the plan and shall
16 provide a written notice to the affected political subdivision, unless the
17 election is a regular special district election, in which case the secretary
18 of state shall approve or disapprove the written plan within twenty-five
19 days after receiving the plan.

20 (b) IN THE CASE OF A PRIMARY ELECTION CONDUCTED AS A MAIL
21 BALLOT ELECTION, THE SECRETARY OF STATE SHALL PROVIDE NOTICE ON
22 ITS WEB SITE THAT A PRIMARY ELECTION IS TO BE CONDUCTED BY MAIL
23 BALLOT.

24 **SECTION 5.** 1-7.5-107 (2.5) (a), (3) (a), and (3) (c), Colorado
25 Revised Statutes, are amended, and the said 1-7.5-107 is further amended
26 BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS,
27 to read:

28 **1-7.5-107. Procedures for conducting mail ballot election -**
29 **primary elections - first-time voters casting a mail ballot after having**
30 **registered by mail to vote.** (2.3) (a) NOT LESS THAN THIRTY DAYS NOR
31 MORE THAN FORTY-FIVE DAYS BEFORE A PRIMARY ELECTION THAT IS
32 CONDUCTED AS A MAIL BALLOT ELECTION PURSUANT TO THIS ARTICLE, THE
33 COUNTY CLERK AND RECORDER SHALL MAIL A POST CARD NOTICE BY
34 NONFORWARDABLE MAIL TO EACH UNAFFILIATED ACTIVE REGISTERED
35 ELIGIBLE ELECTOR AND TO EACH UNAFFILIATED REGISTERED ELIGIBLE



1 ELECTOR WHOSE REGISTRATION RECORD HAS BEEN MARKED AS "INACTIVE
2 - FAILED TO VOTE".

3 (b) THE POST CARD NOTICE SHALL INDICATE THAT THE
4 UNAFFILIATED ELECTOR HAS THE ABILITY TO AND MUST AFFILIATE WITH
5 A POLITICAL PARTY IN ORDER TO VOTE IN THE PRIMARY ELECTION.

6 (c) THE POST CARD NOTICE SHALL HAVE A RETURNABLE PORTION
7 THAT ALLOWS THE ELECTOR TO REQUEST AFFILIATION WITH A POLITICAL
8 PARTY.

9 (d) THE POST CARD NOTICE MAY BE INCLUDED WITH ANY OTHER
10 COMMUNICATION BY MAIL FROM THE COUNTY CLERK AND RECORDER TO
11 ELECTORS WITHIN THE COUNTY.

12 (2.5) (a) (I) No later than twenty days before an election, the
13 designated election official, or the coordinated election official if so
14 provided by an intergovernmental agreement, shall provide notice by
15 publication of a mail ballot election conducted pursuant to the provisions
16 of this article, which notice shall state, as applicable for the particular
17 election for which the notice is provided, the items set forth in section
18 1-5-205 (1) (a) to (1) (d).

19 (II) IF A PRIMARY ELECTION IS CONDUCTED AS A MAIL BALLOT
20 ELECTION PURSUANT TO THIS ARTICLE, IN ADDITION TO THE ITEMS
21 DESCRIBED IN THE NOTICE REQUIRED BY SUBPARAGRAPH (I) OF THIS
22 PARAGRAPH (a), SUCH NOTICE SHALL ADVISE ELIGIBLE ELECTORS WHO ARE
23 NOT AFFILIATED WITH A POLITICAL PARTY OF THE ABILITY TO DECLARE AN
24 AFFILIATION WITH A POLITICAL PARTY AND VOTE IN THE PRIMARY
25 ELECTION."

26 (3) (a) (I) Not sooner than ~~twenty-five~~ TWENTY-THREE days before
27 an election, and no later than ~~fifteen~~ EIGHTEEN days before an election,
28 EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), the
29 designated election official shall mail to each active registered elector, at
30 the last mailing address appearing in the registration records and in
31 accordance with United States postal service regulations, a mail ballot
32 packet, which shall be marked "DO NOT FORWARD. ADDRESS
33 CORRECTION REQUESTED", or any other similar statement that is in
34 accordance with United States postal service regulations; except that with
35 prior approval from the secretary of state, the packets shall be sent no

1 later than ten days before election day. NOTHING IN THIS SUBSECTION (3)
2 SHALL AFFECT ANY PROVISION OF THIS CODE GOVERNING THE DELIVERY
3 OF MAIL BALLOTS TO AN ABSENT UNIFORMED SERVICES ELECTOR,
4 NONRESIDENT OVERSEAS ELECTOR, OR RESIDENT OVERSEAS ELECTOR
5 COVERED BY THE FEDERAL "UNIFORMED AND OVERSEAS CITIZENS
6 ABSENTEE VOTING ACT", 42 U.S.C. SEC. 1973ff ET SEQ.

7 (II) (A) IF A PRIMARY ELECTION IS CONDUCTED AS A MAIL BALLOT
8 ELECTION PURSUANT TO THIS ARTICLE, IN ADDITION TO ACTIVE
9 REGISTERED ELECTORS WHO ARE AFFILIATED WITH A POLITICAL PARTY,
10 THE MAIL BALLOT PACKET SHALL BE MAILED TO EACH REGISTERED
11 ELECTOR WHO IS AFFILIATED WITH A POLITICAL PARTY AND WHOSE
12 REGISTRATION RECORD HAS BEEN MARKED AS "INACTIVE - FAILED TO
13 VOTE".

14 (B) IF A PRIMARY ELECTION IS CONDUCTED AS A MAIL BALLOT
15 ELECTION FOR A MINOR POLITICAL PARTY CANDIDATE, THE MAIL BALLOT
16 PACKET SHALL BE MAILED ONLY TO THOSE REGISTERED ELECTORS
17 DESCRIBED IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) WHO
18 ARE AFFILIATED WITH THE MINOR POLITICAL PARTY OF SUCH CANDIDATE.

19 (c) No sooner than ~~twenty-five~~ TWENTY-THREE days prior to
20 election day, nor later than 7 p.m. on election day, mail ballots shall be
21 made available at the designated election official's office, or the office
22 designated in the mail ballot plan filed with the secretary of state, for
23 eligible electors who are not listed or who are listed as "Inactive" on the
24 county voter registration records or, for special district mail ballot
25 elections, on the list of property owners or the registration list but who are
26 authorized to vote pursuant to section 32-1-806, C.R.S., or other
27 applicable law.

28 (4.3)(a) IF A PRIMARY ELECTION IS CONDUCTED AS A MAIL BALLOT
29 ELECTION PURSUANT TO THIS ARTICLE, THERE SHALL BE A MINIMUM
30 NUMBER OF MAIL BALLOT DROP-OFF LOCATIONS WHERE MAIL BALLOTS
31 MAY BE DEPOSITED EQUAL TO AT LEAST ONE DROP-OFF LOCATION FOR
32 EACH THIRTY THOUSAND AFFILIATED ACTIVE REGISTERED ELECTORS IN
33 THE COUNTY. THE DROP-OFF LOCATIONS SHALL BE ARRAYED
34 THROUGHOUT THE COUNTY IN A MANNER THAT PROVIDES THE GREATEST
35 CONVENIENCE TO ELECTORS. THE NUMBER AND LOCATION OF THE
36 DROP-OFF LOCATIONS SHALL BE APPROVED BY THE SECRETARY OF STATE
37 AS PART OF THE MAIL BALLOT ELECTION PLAN REQUIRED PURSUANT TO

1 SECTION 1-7.5-105.

2 (b) THE MINIMUM NUMBER OF DROP-OFF LOCATIONS DESCRIBED IN
3 PARAGRAPH (a) OF THIS SUBSECTION (4.3) SHALL ACCEPT MAIL BALLOTS
4 DELIVERED BY ELECTORS DURING THE FOURTEEN DAYS PRIOR TO AND
5 INCLUDING THE DAY OF THE PRIMARY ELECTION; EXCEPT THAT MAIL
6 BALLOTS SHALL NOT BE ACCEPTED ON SUNDAYS OR THE FIRST SATURDAY
7 OF SUCH PERIOD. MAIL BALLOTS SHALL BE ACCEPTED FROM ELECTORS AT
8 DROP-OFF LOCATIONS DURING, AT A MINIMUM, REASONABLE BUSINESS
9 HOURS.

10 (4.5) (a) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
11 PARAGRAPH (a), IF A PRIMARY ELECTION IS CONDUCTED AS MAIL BALLOT
12 ELECTION PURSUANT TO THIS ARTICLE, THE COUNTY CLERK AND
13 RECORDER SHALL DESIGNATE SERVICE CENTERS EQUAL TO THE NUMBER
14 OF COUNTY MOTOR VEHICLE OFFICES IN THE COUNTY; EXCEPT THAT EACH
15 COUNTY SHALL HAVE NO FEWER THAN ONE SERVICE CENTER FOR EVERY
16 SIXTY THOUSAND AFFILIATED ACTIVE REGISTERED ELECTORS.

17 (II) ANY COUNTY HAVING SIXTY THOUSAND OR FEWER AFFILIATED
18 ACTIVE REGISTERED ELECTORS SHALL HAVE A MINIMUM OF ONE SERVICE
19 CENTER, REGARDLESS OF THE NUMBER OF MOTOR VEHICLE OFFICES IN
20 SUCH COUNTY.

21 (b) EACH SERVICE CENTER SHALL PROVIDE THE FOLLOWING FOR
22 ELECTORS:

23 (I) THE ABILITY FOR UNAFFILIATED REGISTERED ELECTORS TO
24 AFFILIATE WITH A POLITICAL PARTY AND CAST BALLOTS;

25 (II) SECURE COMPUTER ACCESS;

26 (III) FACILITIES AND EQUIPMENT THAT ARE COMPLIANT WITH THE
27 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
28 12101 ET SEQ., AS AMENDED;

29 (IV) DIRECT RECORD ELECTRONIC VOTING MACHINES;

30 (V) VOTING BOOTHS;

31 (VI) ORIGINAL AND REPLACEMENT BALLOTS FOR DISTRIBUTION;



1 (VII) THE ABILITY TO ACCEPT MAIL BALLOTS THAT ARE DEPOSITED
2 BY ELECTORS;

3 (VIII) EMERGENCY VOTER REGISTRATION; AND

4 (IX) THE ABILITY TO CAST PROVISIONAL BALLOTS.

5 (c) SERVICE CENTERS SHALL BE OPEN DURING THE EIGHT DAYS
6 PRIOR TO AND INCLUDING THE DAY OF THE PRIMARY ELECTION; EXCEPT
7 THAT SERVICE CENTERS SHALL NOT BE OPEN ON SUNDAYS.

8 **SECTION 6. Act subject to petition - effective date.** This act
9 shall take effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly that is
11 allowed for submitting a referendum petition pursuant to article V,
12 section 1 (3) of the state constitution, (August 4, 2009, if adjournment
13 sine die is on May 6, 2009); except that, if a referendum petition is filed
14 against this act or an item, section, or part of this act within such period,
15 then the act, item, section, or part, if approved by the people, shall take
16 effect on the date of the official declaration of the vote thereon by
17 proclamation of the governor."

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