Second Regular Session
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STATE OF COLORADO

REENGROSSED

This Version Includes All Amendments
Adopted in the House of Introduction

LLS NO. 08-0105.01 John Hershey

HOUSE BILL 08-1128

HOUSE SPONSORSHIP

Marostica,

SENATE SPONSORSHIP

Gordon,

House Committees	Senate Committees
State, Veterans, & Military Affairs	

A BILL FOR AN ACT

101 **CONCERNING THE VERIFICATION OF SIGNATURES OF ELECTORS, AND,**

102 **IN CONNECTION THEREWITH, AUTHORIZING THE USE OF**

103 **SIGNATURE VERIFICATION DEVICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Authorizes county clerks and recorders to access the digitized signatures in the statewide voter registration system in order to compare an elector's signature in the system with the signature on the return envelope of a mail-in ballot or mail ballot, including by using a signature verification device.

In a statewide primary or general election or a coordinated mail

HOUSE
3rd Reading Unamended
February 12, 2008

HOUSE
Amended 2nd Reading
February 11, 2008

ballot election, requires election judges to compare an elector's signature on the return envelope of a mail-in ballot or mail ballot with the elector's signature in the statewide voter registration system instead of the one on file in the office of the county clerk and recorder. Authorizes the designated election official to allow an election judge to use a signature verification device to compare the signatures. States that the signature on the return envelope is deemed verified if the signature verification device determines that the signatures match. Requires an election judge to compare the signatures if the signature verification device is unable to determine that the signatures match.

States that the return envelope for a mail-in ballot or mail ballot shall not be required to have a flap covering the signature or otherwise impede the use of a signature verification device.

Directs the secretary of state to adopt rules establishing procedures for using signature verification devices to process ballots.

Clarifies and makes consistent various provisions on verifying signatures on mail-in ballot and mail ballot return envelopes.

Makes conforming amendments. Deletes obsolete provisions.

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

2   **SECTION 1.** 1-2-301 (4) (a) (II), Colorado Revised Statutes, is

3   amended to read:

4   **1-2-301. Centralized statewide registration system - secretary**

5   **of state to maintain computerized statewide voter registration list -**

6   **county computer records - agreement to match information.**

7   (4) (a) (II) The centralized statewide registration system shall enable

8   county clerks and recorders to maintain voter registration information and

9   shall include such additional capabilities as may be necessary or desirable

10   to enable county clerks and recorders and the secretary of state to carry

11   out their responsibilities related to the conduct of elections. Such

12   additional capabilities may include but need not be limited to the

13   preparation of ballots, the identification of voting districts for each

14   address, access by county clerks and recorders to the master list of

15   registered electors and, on or after January 1, 2006, the computerized

1 statewide voter registration list maintained pursuant to this section and

2 section 1-2-302, the management of mail-in and mail ballots, the

3 preparation of official abstracts of votes cast, the transmission of voting

4 data from county clerks and recorders to the secretary of state, and

5 reporting of voting results on election night. COUNTY CLERKS AND

6 RECORDERS SHALL HAVE ACCESS TO THE DIGITIZED SIGNATURES OF

7 ELECTORS IN THE CENTRALIZED STATEWIDE REGISTRATION SYSTEM FOR

8 THE PURPOSE OF COMPARING AN ELECTOR'S SIGNATURE IN THE SYSTEM

9 WITH THE SIGNATURE ON THE RETURN ENVELOPE OF A MAIL-IN BALLOT OR

10 MAIL BALLOT, INCLUDING BY USING A SIGNATURE VERIFICATION DEVICE

11 IN ACCORDANCE WITH SECTIONS 1-7.5-107.3 (5) AND 1-8-114.5 (5).

12 **SECTION 2.** 1-7.5-107.3 (1), (2) (a), (2) (c), (3), and (4) (a),

13 Colorado Revised Statutes, are amended, and the said 1-7.5-107.3 is

14 further amended BY THE ADDITION OF A NEW SUBSECTION, to

15 read:

16 **1-7.5-107.3. Verification of signatures - November coordinated**

17 **elections.** (1) (a) Except as provided in ~~paragraph (b) of this subsection~~

18 ~~(1)~~ SUBSECTION (5) OF THIS SECTION, in every mail ballot election that is

19 a November coordinated election, ~~held in 2005 or any subsequent year,~~

20 an election judge shall compare the signature on the self-affirmation on

21 each return envelope with the signature of the eligible elector on file in

22 the office of the county clerk and recorder OR IN THE STATEWIDE VOTER

23 REGISTRATION SYSTEM in accordance with ~~subsection (2)~~ SUBSECTIONS

24 (2), (3), AND (4) of this section.

25 (b) ~~For the mail ballot election that is a November coordinated~~

26 ~~election held in 2003, the election judge shall compare in accordance with~~

27 ~~paragraph (a) of this subsection (1) only those signatures that are in the~~

1   county clerk and recorder's database no later than 7 p.m. on election day.

2   (2) (a) If, upon comparing the signature of an eligible elector on

3   the self-affirmation on the return envelope with the signature of the

4   eligible elector on file with the county clerk and recorder OR IN THE

5   STATEWIDE VOTER REGISTRATION SYSTEM, the election judge determines

6   that the signatures do not match, OR IF A SIGNATURE VERIFICATION DEVICE

7   USED PURSUANT TO SUBSECTION (5) OF THIS SECTION IS UNABLE TO

8   DETERMINE THAT THE SIGNATURES MATCH, two other election judges of

9   different political party affiliations shall simultaneously compare the

10   signatures. If both other election judges agree that the signatures do not

11   match, the county clerk and recorder shall, within two days after election

12   day, send to the eligible elector at the address indicated in the registration

13   records a letter explaining the discrepancy in signatures and a form for the

14   eligible elector to confirm that the elector returned a ballot to the county

15   clerk and recorder. If the county clerk and recorder receives the form

16   within eight days after election day confirming that the elector returned

17   a ballot to the county clerk and recorder and enclosing a copy of the

18   elector's identification as defined in section 1-1-104 (19.5), and if the

19   ballot is otherwise valid, the ballot shall be counted. If the eligible elector

20   returns the form indicating that the elector did not return a ballot to the

21   county clerk and recorder, or if the eligible elector does not return the

22   form within eight days after election day, the self-affirmation on the

23   return envelope shall be categorized as incorrect, the ballot shall not be

24   counted, and the county clerk and recorder shall send copies of the

25   eligible elector's signature on the return envelope and the signature on file

26   with the county clerk and recorder OR IN THE STATEWIDE VOTER

27   REGISTRATION SYSTEM to the district attorney for investigation.

1   (c) In the case of a disagreement among the election judges as to

2   whether the signature of an eligible elector on the self-affirmation on the

3   return envelope matches the signature of the eligible elector on file with

4   the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION

5   SYSTEM pursuant to the procedures specified in paragraph (a) of this

6   subsection (2), the ~~mail ballot contained in the return envelope shall be~~

7   ~~counted in accordance with the requirements of sections 1-7.5-107 (6)~~

8   ~~and 1-7.5-107.5~~ SIGNATURES ARE DEEMED TO MATCH, AND THE ELECTION

9   JUDGE SHALL FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-7.5-107

10   (6) CONCERNING THE QUALIFICATION AND COUNTING OF MAIL BALLOTS.

11   (3)   If the election judge determines that the signature of an

12   eligible elector on the self-affirmation matches the elector's signature on

13   file with the county clerk and recorder OR IN THE STATEWIDE VOTER

14   REGISTRATION SYSTEM, the election judge shall follow the procedures

15   specified in section 1-7.5-107 ~~(5) and~~ (6) concerning the qualification and

16   counting of mail ballots.

17   (4) (a) An election judge shall not determine that the signature of

18   an eligible elector on the self-affirmation does not match the signature of

19   that eligible elector on file with the county clerk and recorder OR IN THE

20   STATEWIDE VOTER REGISTRATION SYSTEM solely on the basis of

21   substitution of initials or use of a common nickname.

22   (5) (a)   A DESIGNATED ELECTION OFFICIAL MAY ALLOW AN

23   ELECTION JUDGE TO USE A SIGNATURE VERIFICATION DEVICE TO COMPARE

24   THE SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN

25   ELIGIBLE ELECTOR'S BALLOT WITH THE SIGNATURE OF THE ELECTOR ON

26   FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE

27   VOTER REGISTRATION SYSTEM IN ACCORDANCE WITH THIS SUBSECTION (5)

1   AND THE RULES ADOPTED BY THE SECRETARY OF STATE PURSUANT TO

2   SECTION 1-8-114.5 (5) (c).

3   (b) IF A SIGNATURE VERIFICATION DEVICE DETERMINES THAT THE

4   SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN

5   ELIGIBLE ELECTOR'S BALLOT MATCHES THE SIGNATURE OF THE ELECTOR

6   ON FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE

7   VOTER REGISTRATION SYSTEM, THE SIGNATURE ON THE SELF-AFFIRMATION

8   IS DEEMED VERIFIED, AND THE ELECTION JUDGE SHALL FOLLOW THE

9   PROCEDURES SPECIFIED IN SECTION 1-7.5-107 (6) CONCERNING THE

10   QUALIFICATION AND COUNTING OF MAIL BALLOTS. IF A SIGNATURE

11   VERIFICATION DEVICE IS UNABLE TO DETERMINE THAT THE SIGNATURE ON

12   THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN ELIGIBLE

13   ELECTOR'S MAIL BALLOT MATCHES THE SIGNATURE OF THE ELECTOR ON

14   FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE

15   VOTER REGISTRATION SYSTEM, AN ELECTION JUDGE SHALL COMPARE THE

16   SIGNATURES IN ACCORDANCE WITH SUBSECTIONS (2), (3), AND (4) OF THIS

17   SECTION.

18   **SECTION 3.** 1-7.5-107 (3) (b.5), Colorado Revised Statutes, is

19   amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

20   **1-7.5-107. Procedures for conducting mail ballot election -**

21   **first-time voters casting a mail ballot after having registered by mail**

22   **to vote.** (3) (b.5) (III) THE RETURN ENVELOPE SHALL NOT BE REQUIRED

23   TO HAVE A FLAP COVERING THE SIGNATURE OR OTHERWISE IMPEDE THE

24   USE OF A SIGNATURE VERIFICATION DEVICE.

25   **SECTION 4.** 1-7.5-107 (5) (c), Colorado Revised Statutes, is

26   amended to read:

27   **1-7.5-107. Procedures for conducting mail ballot election -**

1   **first-time voters casting a mail ballot after having registered by mail**

2   **to vote.** (5) (c) For November coordinated elections only, the signature

3   of the eligible elector on the return envelope shall be compared with the

4   signature of the eligible elector on file in the office of the county clerk

5   and recorder OR IN THE STATEWIDE VOTER REGISTRATION SYSTEM in

6   accordance with section 1-7.5-107.3.

7   **SECTION 5.** 1-8-114, Colorado Revised Statutes, is amended BY

8   THE ADDITION OF A NEW SUBSECTION to read:

9   **1-8-114. Self-affirmation on return envelope.** (4) THE RETURN

10   ENVELOPE SHALL NOT BE REQUIRED TO HAVE A FLAP COVERING THE

11   SIGNATURE OR OTHERWISE IMPEDE THE USE OF A SIGNATURE VERIFICATION

12   DEVICE.

13   **SECTION 6.** 1-8-114.5 (1), (2) (a), (2) (c), (3), and (4) (a),

14   Colorado Revised Statutes, are amended, and the said 1-8-114.5 is further

15   amended BY THE ADDITION OF A NEW SUBSECTION, to read:

16   **1-8-114.5. Verification of signatures - rules.** (1) (a) Except as

17   provided in ~~paragraph (b) of this subsection (1)~~ SUBSECTION (5) OF THIS

18   SECTION, in every ~~statewide~~ COORDINATED, primary, and general election,

19   ~~held in 2006 or any subsequent year,~~ an election judge shall compare the

20   signature on the self-affirmation on each return envelope of each mail-in

21   ballot with the signature of the eligible elector on file in the office of the

22   county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION

23   SYSTEM in accordance with ~~subsection (2)~~ SUBSECTIONS (2), (3), AND (4)

24   of this section.

25   (b) ~~For the statewide primary and general election held in 2004,~~

26   ~~the election judge shall compare in accordance with paragraph (a) of this~~

27   ~~subsection (1) only those signatures that are in the county clerk and~~

1   ~~recorder's database.~~

2   (2) (a) If, upon comparing the signature of an eligible elector on

3   the self-affirmation on the return envelope with the signature of that

4   eligible elector on file with the county clerk and recorder OR IN THE

5   STATEWIDE VOTER REGISTRATION SYSTEM, the election judge determines

6   that the signatures do not match, OR IF A SIGNATURE VERIFICATION DEVICE

7   USED PURSUANT TO SUBSECTION (5) OF THIS SECTION IS UNABLE TO

8   DETERMINE THAT THE SIGNATURES MATCH, two other election judges of

9   different political party affiliations shall simultaneously compare the

10   signatures. If both other election judges agree that the signatures do not

11   match, the county clerk and recorder shall, within two days after election

12   day, send to the eligible elector at the address indicated in the registration

13   records a letter explaining the discrepancy in signatures and a form for the

14   eligible elector to confirm that the elector voted, signed the

15   self-affirmation, and returned a ballot to the county clerk and recorder. If

16   the county clerk and recorder receives the form within eight days after

17   election day confirming that the elector voted, signed the self-affirmation,

18   and returned a ballot to the county clerk and recorder and enclosing a

19   copy of the elector's identification as defined in section 1-1-104 (19.5),

20   and if the ballot is otherwise valid, the ballot shall be counted. If the

21   eligible elector does not enclose a copy of the elector's identification as

22   defined in section 1-1-104 (19.5) along with the form, the self-affirmation

23   on the return envelope shall be categorized as incorrect and the ballot

24   shall not be counted. If the eligible elector returns the form indicating

25   that the elector did not vote, sign the self-affirmation, or return a ballot to

26   the county clerk and recorder, or if the eligible elector does not return the

27   form within eight days after election day, the self-affirmation on the

1   return envelope shall be categorized as incorrect, the ballot shall not be

2   counted, and the county clerk and recorder shall send copies of the

3   eligible elector's signature on the return envelope and the signature on file

4   with the county clerk and recorder OR IN THE STATEWIDE VOTER

5   REGISTRATION SYSTEM to the district attorney for investigation.

6   (c) In the case of a disagreement among the election judges as to

7   whether the signature of an eligible elector on the self-affirmation on the

8   return envelope matches the signature of the eligible elector on file with

9   the county clerk and recorder OR IN THE STATEWIDE VOTER REGISTRATION

10   SYSTEM pursuant to the procedures specified in paragraph (a) of this

11   subsection (2), the mail-in ballot contained in the return envelope shall be

12   counted in accordance with the requirements of part 3 of this article

13   SIGNATURES ARE DEEMED TO MATCH, AND THE ELECTION JUDGE SHALL

14   FOLLOW THE PROCEDURES SPECIFIED IN SECTION 1-8-304 CONCERNING THE

15   QUALIFICATION AND COUNTING OF MAIL-IN BALLOTS.

16   (3) If the election judge determines that the signature of an

17   eligible elector on the self-affirmation matches the elector's signature on

18   file with the county clerk and recorder OR IN THE STATEWIDE VOTER

19   REGISTRATION SYSTEM, the election judge shall follow the procedures

20   specified in part 3 of this article pertaining to the SECTION 1-8-304

21   CONCERNING THE QUALIFICATION AND counting of mail-in ballots.

22   (4) (a) An election judge shall not determine that the signature of

23   an eligible elector on the self-affirmation does not match the signature of

24   that eligible elector on file with the county clerk and recorder OR IN THE

25   STATEWIDE VOTER REGISTRATION SYSTEM solely on the basis of

26   substitution of initials or use of a common nickname.

27   (5) (a) A DESIGNATED ELECTION OFFICIAL MAY ALLOW AN

1 ELECTION JUDGE TO USE A SIGNATURE VERIFICATION DEVICE TO COMPARE

2 THE SIGNATURE ON THE SELF-AFFIRMATION ON THE RETURN ENVELOPE OF

3 AN ELIGIBLE ELECTOR'S MAIL-IN BALLOT WITH THE SIGNATURE OF THE

4 ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE

5 STATEWIDE VOTER REGISTRATION SYSTEM IN ACCORDANCE WITH THIS

6 SUBSECTION (5) AND THE RULES ADOPTED BY THE SECRETARY OF STATE

7 PURSUANT TO PARAGRAPH (c) OF THIS SUBSECTION (5).

8 (b) IF A SIGNATURE VERIFICATION DEVICE DETERMINES THAT THE

9 SIGNATURE ON THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN

10 ELIGIBLE ELECTOR'S MAIL-IN BALLOT MATCHES THE SIGNATURE OF THE

11 ELECTOR ON FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE

12 STATEWIDE VOTER REGISTRATION SYSTEM, THE SIGNATURE ON THE

13 SELF-AFFIRMATION IS DEEMED TO MEET THE REQUIREMENT OF SECTION

14 1-8-304 (1) (b) (III), AND THE ELECTION JUDGE SHALL FOLLOW THE

15 PROCEDURES SPECIFIED IN SECTION 1-8-304 CONCERNING THE

16 QUALIFICATION AND COUNTING OF MAIL-IN BALLOTS. IF A SIGNATURE

17 VERIFICATION DEVICE IS UNABLE TO DETERMINE THAT THE SIGNATURE ON

18 THE SELF-AFFIRMATION ON A RETURN ENVELOPE OF AN ELIGIBLE

19 ELECTOR'S MAIL-IN BALLOT MATCHES THE SIGNATURE OF THE ELECTOR ON

20 FILE WITH THE COUNTY CLERK AND RECORDER OR IN THE STATEWIDE

21 VOTER REGISTRATION SYSTEM, AN ELECTION JUDGE SHALL COMPARE THE

22 SIGNATURES IN ACCORDANCE WITH SUBSECTIONS (2), (3), AND (4) OF THIS

23 SECTION.

24 (c) THE SECRETARY OF STATE SHALL ADOPT RULES IN

25 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., ESTABLISHING

26 PROCEDURES FOR USING SIGNATURE VERIFICATION DEVICES TO PROCESS

27 MAIL-IN BALLOTS PURSUANT TO THIS ARTICLE AND BALLOTS USED IN MAIL

1 BALLOT ELECTIONS PURSUANT TO ARTICLE 7.5 OF THIS TITLE.

2 **SECTION 7.** 1-8-304 (1) (a), (1) (b) (III), and (1) (d), Colorado

3 Revised Statutes, are amended to read:

4 **1-8-304.   Preparing to count mail-in ballots - rejections.**

5 (1) (a) Before opening any mail-in ballot, one of the receiving judges, in

6 the presence of a majority of the receiving judges, shall inspect the

7 self-affirmation on the return envelope. ~~and, in an election coordinated by~~

8 ~~the county clerk and recorder, compare the signature on the~~

9 ~~self-affirmation with the signature of the eligible elector on file in the~~

10 ~~county clerk and recorder's office.~~

11   (b) (III)   In an election coordinated by the county clerk and

12 recorder, the signature on the self-affirmation matches the signature on

13 file ~~in~~ WITH the county clerk and ~~recorder's office~~ RECORDER OR IN THE

14 STATEWIDE VOTER REGISTRATION SYSTEM, or the eligible elector's marks

15 on the application and the self-affirmation were witnessed by other

16 persons.

17   (d) For purposes of subparagraph (III) of paragraph (b) of this

18 subsection (1), the signatures on an eligible elector's self-affirmation and

19 on file ~~in~~ WITH the county clerk and ~~recorder's office~~ RECORDER OR IN THE

20 STATEWIDE VOTER REGISTRATION SYSTEM shall be compared in the ~~same~~

21 manner ~~as signatures on mail ballots are compared pursuant to article 7.5~~

22 ~~of this title~~ PRESCRIBED BY SECTION 1-8-114.5.

23   **SECTION 8. Applicability.** This act shall apply to elections held

24 on or after the effective date of this act.

25   **SECTION 9. Safety clause.** The general assembly hereby finds,

26 determines, and declares that this act is necessary for the immediate

27 preservation of the public peace, health, and safety.