A BILL FOR AN ACT

CONCERNING THE OPTIONAL USE OF APPROVAL VOTING METHODS BY LOCAL GOVERNMENTS IN NONPARTISAN ELECTIONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://www.leg.state.co.us/billsummaries.)

"Approval voting" is a type of voting that allows an elector to cast a vote for as many of the candidates per office as the elector chooses. The winner of each office is the candidate who receives the most votes or, for elections in which multiple candidates fill open seats, the winners are those candidates, in a number equal to the number of seats being filled,
attaining the greatest number of votes.

The bill authorizes cities, towns, counties, cities and counties, school districts, and special districts (collectively, "local governments") to conduct nonpartisan elections using approval voting methods on and after November 1, 2014. The secretary of state is directed to adopt rules and provide advice to local governments regarding approval voting.

County clerk and recorders may decline to coordinate an election if a local government elects to employ approval voting in the election.

The bill makes necessary modifications to current law occasioned by the use of approval voting, such as excluding approval voting from the definition of "overvote" and adjusting provisions prescribing the form of ballots and automatic recount triggers.

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

SECTION 1. In Colorado Revised Statutes, 1-1-104, amend (23.4) as follows:

1-1-104. Definitions. As used in this code, unless the context otherwise requires:

(23.4) "Overvote" means the selection by an elector of more names than there are persons to be elected to an office or the designation of more than one answer to a ballot question or ballot issue. "OVERVOTE" DOES NOT INCLUDE APPROVAL VOTING, AS DEFINED IN SECTION 1-7-1102 (1).

SECTION 2. In Colorado Revised Statutes, 1-5-407, amend (2) and (3) as follows:

1-5-407. Form of ballots. (2) The ballots shall be printed so as to give to each eligible elector a clear opportunity to designate his or her choice of candidates, joint candidates, ballot issues, and ballot questions by a mark as instructed. On the ballot may be printed words that will aid the elector, such as "vote for not more than one" OR, FOR AN ELECTION CONDUCTED USING APPROVAL VOTING PURSUANT TO PART 11 OF ARTICLE 7 OF THIS TITLE, "VOTE FOR NOT MORE THAN [NUMBER OF CANDIDATES
FOR THE SEAT, INCLUDING WRITE-IN CANDIDATES APPROVED UNDER PART
11 OF ARTICLE 4 OF TITLE 1, C.R.S.].”.

(3) (a) At the end of the list of candidates for each different office
shall be one or more blank spaces in which the elector may write the
name of any eligible person not printed on the ballot who has filed an
affidavit of intent of write-in candidate pursuant to section 1-4-1101.
EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (3), the
number of spaces provided shall be the lesser of the number of eligible
electors who have properly filed an affidavit of intent of write-in
candidate pursuant to section 1-4-1101 or the number of persons to be
elected to the office. No such blank spaces shall be provided if no
eligible elector properly filed an affidavit of intent of write-in candidate.

(b) FOR AN ELECTION CONDUCTED USING AN APPROVAL VOTING
METHOD PURSUANT TO PART 11 OF ARTICLE 7 OF THIS TITLE, THE NUMBER
OF BLANK SPACES PROVIDED IN WHICH AN ELECTOR MAY WRITE IN THE
NAME OF A WRITE-IN CANDIDATE IS THE NUMBER OF ELIGIBLE ELECTORS
WHO PROPERLY FILED AN AFFIDAVIT OF INTENT PURSUANT TO SECTION
1-4-1101.

SECTION 3. In Colorado Revised Statutes, 1-7-116, add (6) as
follows:

1-7-116. Coordinated elections - definition. (6) A COUNTY
CLERK AND RECORDER MAY, IN HIS OR HER DISCRETION, DECLINE TO
COORDINATE AN ELECTION FOR A LOCAL GOVERNMENT, AS DEFINED IN
SECTION 1-7-1102 (2), IF THE LOCAL GOVERNMENT HAS ELECTED TO USE
APPROVAL VOTING PURSUANT TO PART 11 OF THIS ARTICLE.

SECTION 4. In Colorado Revised Statutes, add part 11 to article
7 of title 1 as follows:
PART 11

APPROVAL VOTING

1-7-1101. Short title. This part 11 shall be known and may be cited as the "Approval Voting Act".

1-7-1102. Definitions. As used in this part 11, unless the context otherwise requires:

(1) "Approval voting" means any system of voting in which:

(a) An elector may cast a vote for as many of the candidates per office as the elector chooses; and

(b) The winner of each office is the candidate who receives the most votes.

(2) "Local government" means a city or town, county, city and county, school district, public improvement district created pursuant to part 5 of article 20 of title 30, C.R.S., or a special district created pursuant to article 1 of title 32, C.R.S.

1-7-1103. Approval voting methods authorized - when. (1) A local government may conduct an election using an approval voting method if:

(a) The election in which approval voting is employed is a nonpartisan election;

(b) Use of the approval voting method in the local government is not prohibited by the charter of the local government;

(c) The election is conducted in accordance with this part 11 and rules promulgated by the secretary of state pursuant to section 1-7-1105; and
THE ELECTION IS CONDUCTED WITH A SYSTEM OF CASTING, RECORDING, AND TABULATING VOTES THAT IS CAPABLE OF CONDUCTING THE ELECTION USING APPROVAL VOTING AND THAT HAS BEEN CERTIFIED BY THE SECRETARY OF STATE.

(2) APPROVAL VOTING MAY BE UTILIZED IN ELECTIONS CONDUCTED ON AND AFTER NOVEMBER 1, 2014.

1-7-1104. Conduct of elections using approval voting methods

- ballots - information provided to electors. (1) NOTWITHSTANDING SECTION 1-7-114 (3), ANY ELECTION CONTEST CONDUCTED USING AN APPROVAL VOTING METHOD MUST ALLOW AN ELECTOR TO VOTE ON A BALLOT FOR AS MANY CANDIDATES FOR EACH OFFICE AS THE ELECTOR CHOSES, INCLUDING WRITE-IN CANDIDATES WHO PROPERLY FILED AFFIDAVITS OF INTENT IN ACCORDANCE WITH PART 11 OF ARTICLE 4 OF THIS TITLE OR ARTICLE 10 OF TITLE 31, C.R.S., AS APPLICABLE.

(2) (a) (I) IN AN ELECTION CONDUCTED USING AN APPROVAL VOTING METHOD IN WHICH ONE CANDIDATE IS TO BE ELECTED TO AN OFFICE, THE DESIGNATED ELECTION OFFICIAL SHALL DECLARE AS THE WINNER THE CANDIDATE WHO RECEIVES THE GREATEST NUMBER OF VOTES.

(II) IN AN ELECTION CONDUCTED USING AN APPROVAL VOTING METHOD IN WHICH MORE THAN ONE CANDIDATE IS TO BE ELECTED TO AN OFFICE IN A MULTIPLE-SEAT DISTRICT OR ON A GOVERNING BODY THAT INCLUDES MULTIPLE AT-LARGE SEATS, THE OFFICES ARE WON BY THOSE CANDIDATES, IN A NUMBER EQUAL TO THE NUMBER OF SEATS BEING FILLED, WHO RECEIVE THE GREATEST NUMBER OF VOTES.

(b) NOTHING IN THIS SUBSECTION (2) PROHIBITS A LOCAL GOVERNMENT FROM ENFORCING OR IMPOSING ADDITIONAL REQUIREMENTS.
FOR DETERMINING THE WINNER OF A LOCAL GOVERNMENT ELECTION USING
AN APPROVAL VOTING METHOD.

1-7-1105. Secretary of state - rules - guidance to local
governments. (1) (a) Prior to October 1, 2014, the secretary of
state shall adopt rules in accordance with Article 4 of Title 24,
C.R.S., on the conduct of elections using approval voting
methods. The rules shall prescribe the methods and procedures
for tabulating, auditing, and reporting results in an election
using an approval voting method.

(b) The secretary of state may promulgate rules as
necessary for the implementation and administration of this
part 11.

(2) Upon request, the secretary of state shall provide
guidance and advice to the governing bodies and designated
election officials of local governments of the state on the
conduct of elections using approval voting methods.

SECTION 5. In Colorado Revised Statutes, 1-10.5-101, add (1)
c as follows:

1-10.5-101. Recounts required - expenses.

(1) (c) (I) Notwithstanding paragraph (b) of this subsection (1),
for an election contest conducted using an approval voting
method, a recount is required if:

(A) The difference between the number of votes cast for
any candidate apparently elected and the number of votes cast
for any candidate apparently defeated is less than or equal to
one-half percent of the number of ballots cast that contain the
contest, or less than six if the number of ballots cast that
CONTAIN THE CONTEST IS ONE THOUSAND OR LESS; OR

(B) THE DIFFERENCE BETWEEN THE NUMBER OF VOTES CAST FOR
ANY CANDIDATE AND A NUMERICAL THRESHOLD THAT TRIGGERS A RUNOFF
ELECTION IS LESS THAN OR EQUAL TO ONE-HALF PERCENT OF THE TOTAL
BALLOTS CAST THAT CONTAIN THE CONTEST.

(II) A CANVASS BOARD MAY, IN ITS DISCRETION, CONDUCT A
RECOUNT REQUIRED PURSUANT TO THIS PARAGRAPH (c) BY HAND.

SECTION 6. In Colorado Revised Statutes, 22-31-103, amend
(1) as follows:

22-31-103. Board of education to govern conduct of school
elections - contract with county clerk and recorder - approval voting
authorized. (1) (a) Except as otherwise provided in this article, the board
of education of each school district shall govern the conduct of all school
elections in the district, shall designate an election official who shall be
responsible for conducting the election, and shall render all
interpretations and make all initial decisions as to controversies or other
matters arising in the conduct of such elections. All elections authorized
in this article shall be conducted pursuant to the provisions of articles 1
to 13 of title 1, C.R.S.

(b) A BOARD OF EDUCATION OF A SCHOOL DISTRICT MAY USE AN
APPROVAL VOTING METHOD TO CONDUCT A REGULAR BIENNIAL SCHOOL
ELECTION TO ELECT SCHOOL DIRECTORS OF THE DISTRICT IN ACCORDANCE
WITH SECTION 1-7-1103, C.R.S., AND THE RULES ADOPTED BY THE
SECRETARY OF STATE PURSUANT TO SECTION 1-7-1105 (1), C.R.S. AS
USED IN THIS SUBSECTION (1), "APPROVAL VOTING" HAS THE SAME
MEANING AS SET FORTH IN SECTION 1-7-1102 (1), C.R.S.

SECTION 7. In Colorado Revised Statutes, add 31-10-618 as
follows:

31-10-618. Approval voting methods - how used - definition.

(1) (a) Notwithstanding any provision of this article to the contrary, a municipality may use an approval voting method to conduct a regular election to elect the mayor or members of the governing body of the municipality in accordance with section 1-7-1103, C.R.S., and the rules adopted by the secretary of state pursuant to section 1-7-1105 (1), C.R.S.

(b) Notwithstanding section 31-10-612, a ballot cast in an election conducted under this article using approval voting is not defective solely because an elector votes for more names than there are persons to be elected to a particular office.

(2) A municipality conducting an election using an approval voting method may adapt the requirements of this article, including requirements concerning the form of the ballot, the method of marking the ballot, the procedure for counting ballots, and the form of the election judges' certificate, as necessary for compatibility with the approval voting method.

(3) As used in this section, "approval voting" has the meaning set forth in section 1-7-1102 (1), C.R.S.

SECTION 8. In Colorado Revised Statutes, add 32-1-805.7 as follows:

32-1-805.7. Approval voting methods. (1) Notwithstanding any provision of this article to the contrary, a special district may use an approval voting method to conduct a regular election to elect directors of the special district in accordance
WITH SECTION 1-7-1103, C.R.S., AND THE RULES ADOPTED BY THE
SECRETARY OF STATE PURSUANT TO SECTION 1-7-1105, C.R.S.

(2) A SPECIAL DISTRICT CONDUCTING AN ELECTION USING AN
APPROVAL VOTING METHOD MAY ADAPT THE REQUIREMENTS OF THIS PART
8 AND PART 11 OF ARTICLE 7 OF TITLE 1, C.R.S., INCLUDING
REQUIREMENTS CONCERNING THE FORM OF THE BALLOT, THE METHOD OF
MARKING THE BALLOT, THE PROCEDURE FOR COUNTING BALLOTS, AND THE
FORM OF THE ELECTION JUDGES' CERTIFICATE, AS NECESSARY FOR
COMPATIBILITY WITH THE APPROVAL VOTING METHOD.

(3) AS USED IN THIS SECTION, "APPROVAL VOTING" HAS THE
MEANING SET FORTH IN SECTION 1-7-1102 (1), C.R.S.

SECTION 9. Applicability. This act applies to elections
conducted on or after November 1, 2014.

SECTION 10. Act subject to petition - effective date. This act
takes effect at 12:01 a.m. on the day following the expiration of the
ninety-day period after final adjournment of the general assembly (August
6, 2014, if adjournment sine die is on May 7, 2014); except that, if a
referendum petition is filed pursuant to section 1 (3) of article V of the
state constitution against this act or an item, section, or part of this act
within such period, then the act, item, section, or part will not take effect
unless approved by the people at the general election to be held in
November 2014 and, in such case, will take effect on the date of the
official declaration of the vote thereon by the governor.