

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 15-0033.01 Jason Gelender x4330

HOUSE BILL 15-1130

HOUSE SPONSORSHIP

Nordberg and Ryden,

SENATE SPONSORSHIP

Garcia and Hill,

House Committees

State, Veterans, & Military Affairs

Senate Committees

State, Veterans, & Military Affairs

A BILL FOR AN ACT

101 CONCERNING VOTING BY MILITARY AND OVERSEAS VOTERS IN
102 MUNICIPAL ELECTIONS, AND, IN CONNECTION THEREWITH,
103 EXTENDING CERTAIN DEADLINES THAT GOVERN THE CONDUCT
104 OF MUNICIPAL ELECTIONS TO ENSURE THAT SUCH VOTERS HAVE
105 THE SAME ABILITY TO VOTE IN SUCH ELECTIONS AS THEY DO IN
106 FEDERAL, STATE, AND COUNTY 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>.)

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
March 24, 2015

HOUSE
3rd Reading Unamended
March 3, 2015

HOUSE
Amended 2nd Reading
March 2, 2015

The federal "Uniformed and Overseas Citizens Absentee Voting Act" (UOCAVA) and the state "Uniform Military and Overseas Voters Act" (UMOVA) provide procedural requirements for the conduct of federal and state elections that help ensure that United States military personnel and American civilians living abroad can vote in such elections. Because county elections are coordinated with state elections, UOCAVA and UMOVA also indirectly help ensure that such military personnel and civilians can vote in county elections. The bill extends certain deadlines that govern the conduct of municipal elections to ensure that such military personnel and civilians have similar ability to vote in municipal elections as they do in federal, state, and county elections.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The right to vote is a fundamental right of all Americans;

5 (b) American military personnel who are stationed outside of the
6 United States while serving in the military and other Americans who live
7 abroad face significant logistical challenges in exercising their right to
8 vote in elections conducted in their home states; and

9 (c) The federal "Uniformed and Overseas Citizens Absentee
10 Voting Act", 42 U.S.C. sec. 1973ff-2, and the state "Uniform Military and
11 Overseas Voters Act", article 8.3 of title 1, Colorado Revised Statutes,
12 directly mitigate the logistical challenges of voting in federal and state
13 elections for Colorado citizens living abroad and indirectly mitigate the
14 challenges of voting in county elections, but do not apply to municipal
15 elections.

16 (2) The general assembly further finds and declares that it is
17 necessary, appropriate, and in the best interest of all Coloradans to extend
18 certain deadlines that govern the conduct of municipal elections to ensure
19 that the right of Coloradans living abroad to vote in municipal elections

1 is protected to a similar extent as their right to vote in federal, state, and
2 county elections.

3 **SECTION 2.** In Colorado Revised Statutes, 31-10-302, **amend**
4 (1), (2) introductory portion, (4), and (6); and **repeal** (8) as follows:

5 **31-10-302. Nomination of municipal officers.** (1) Candidates
6 for municipal offices shall be nominated, without regard to affiliation, by
7 petition on forms supplied by the clerk. A petition of nomination may
8 consist of one or more sheets, but it shall contain the name and address
9 of only one candidate and shall indicate the office to which the candidate
10 is seeking election. ~~The petition may designate one or more persons as a~~
11 ~~committee to fill a vacancy in the nomination.~~

12 (2) Nomination petitions may be circulated and signed beginning
13 on the ~~fiftieth~~ NINETY-FIRST day and ending on the ~~thirtieth~~
14 SEVENTY-FIRST day prior to the day of election. Each petition ~~shall~~ MUST
15 be signed by registered electors in the following numbers:

16 (4) No petition is valid that does not contain the requisite number
17 of signatures of registered electors. The clerk shall inspect timely filed
18 petitions of nomination to ensure compliance with this section. Such
19 inspection may consist of an examination of the information on the
20 signature lines for patent defects, a comparison of the information on the
21 signature lines with a list of registered electors provided by the county, or
22 any other method of inspection reasonably expected to ensure compliance
23 with this section. Any petition may be amended to correct or replace those
24 signatures ~~which~~ THAT the clerk finds are not in apparent conformity with
25 the requirements of this section at any time prior to ~~twenty-two~~
26 SIXTY-THREE days before the day of election.

27 (6) Each nomination petition shall be filed with the clerk no later

1 than the ~~thirtieth~~ SEVENTY-FIRST day prior to the day of election. Every
2 petition shall have endorsed thereon or appended thereto the written
3 affidavit of the candidate accepting the nomination and swearing that the
4 candidate satisfies the requirements set forth in section 31-10-301 to be
5 a candidate and hold office in the municipality. The acceptance of
6 nomination shall contain the place of residence of the candidate and the
7 name of the candidate in the form that the candidate wishes it to appear
8 on the ballot. The candidate's name may be a nickname or include a
9 nickname but shall not contain any title or degree designating the business
10 or profession of the candidate.

11 (8) ~~Nomination petitions for candidates whose name will be on~~
12 ~~the ballot at a coordinated election pursuant to articles 1 to 13 of title 1,~~
13 ~~C.R.S., shall be circulated, signed, and filed with the municipal clerk~~
14 ~~within the period set forth in section 1-4-805, C.R.S.~~

15 **SECTION 3.** In Colorado Revised Statutes, 31-2-104, **amend** (4)
16 as follows:

17 **31-2-104. Organization of new city or town.** (4) At least ten
18 TWENTY days before the election, the commissioners by their ~~chairman~~
19 CHAIR shall give notice of the election in the manner prescribed by the
20 "Colorado Municipal Election Code of 1965".

21 **SECTION 4.** In Colorado Revised Statutes, 31-2-207, **amend** (1)
22 as follows:

23 **31-2-207. Charter election - notice.** (1) Within thirty days after
24 the date that the charter commission submits the proposed charter to it,
25 the governing body shall publish and give notice of an election to
26 determine whether the proposed charter shall be approved, which election
27 shall be held not less than ~~thirty~~ SIXTY nor more than one hundred

1 eighty-five days after publication of the notice thereof. Such notice of the
2 election shall contain the full text of the proposed charter.

3 **SECTION 5.** In Colorado Revised Statutes, 31-2-210, **amend** (4)
4 as follows:

5 **31-2-210. Procedure to amend or repeal charter.** (4) The
6 governing body shall, within thirty days of the date of adoption of the
7 ordinance or the date of filing of the petition (if the same is certified by
8 the clerk to be valid and sufficient), publish notice of an election upon the
9 amendment or proposal, which notice shall contain the full text of the
10 amendment or statement of the proposal as contained in the ordinance or
11 petition. The election shall be held not less than ~~thirty~~ SIXTY nor more
12 than one hundred twenty days after publication of such notice; except
13 that, if the proposal is for formation of a charter commission, the election
14 shall be held not less than sixty days after publication of such notice. If
15 the amendment or proposal is initiated by petition and is sought to be
16 submitted at a special election, the election shall be held as near as
17 possible to the approximate date stated in the petition, but in any event
18 shall be held within the time limits stated in this subsection (4).

19 **SECTION 6.** In Colorado Revised Statutes, 31-4-503, **amend** (4)
20 as follows:

21 **31-4-503. Petition in sections - signing - affidavit - review -**
22 **tampering with petition.** (4) When such recall petition is determined
23 sufficient, the municipal clerk shall submit said petition, together with a
24 certificate of its sufficiency, to the governing body of such municipality
25 at the first meeting of such body following expiration of the period within
26 which a protest may be filed or at the first meeting of such body
27 following the determination of a hearing officer that a petition is

1 sufficient, whichever is later. The governing body shall thereupon order
2 and fix a date for the recall election to be held not less than ~~thirty~~ SIXTY
3 days nor more than ~~ninety~~ ONE HUNDRED TWENTY days from the date of
4 submission of the petition to the governing body by the municipal clerk
5 and determine whether voting in the recall election is to take place at the
6 polling place or by mail ballot; but, if a regular election is to be held
7 within one hundred eighty days after the date of submission of said
8 petition, the recall election shall be held as a part of said regular election;
9 except that, if the officer sought to be recalled is seeking reelection at said
10 regular election, only the question of such officer's reelection shall appear
11 on the ballot. If a successor to the officer sought to be recalled is to be
12 selected at such regular election and the officer sought to be recalled is
13 not seeking reelection, the question of such officer's recall shall not
14 appear on the ballot of such regular election.

15 **SECTION 7.** In Colorado Revised Statutes, 31-4-504, **amend** (2)
16 and (4); and **add** (4.5) as follows:

17 **31-4-504. Resignation - vacancy filled - election - ballot -**
18 **nomination.** (2) At least ~~ten~~ TWENTY days before the recall election, the
19 clerk shall give notice of the election in accordance with section
20 31-10-501. Except as otherwise provided in this part 5, the recall election
21 shall be conducted and returned and the result of such election declared
22 in all respects as in the case of regular elections.

23 (4) (a) ~~Except as otherwise provided in paragraph (b) of this~~
24 ~~subsection (4),~~ Candidates for the office at a recall election may be
25 nominated by petition as provided in section 31-10-302; except that
26 nominating petitions may be circulated beginning on the first business day
27 after the governing body sets the date for the recall election and shall be

1 filed no later than ~~twenty~~ FORTY days prior to such recall election.

2 (b) ~~Where the governing body of the municipality chooses to~~
3 ~~conduct the recall election by mail ballot in accordance with the~~
4 ~~requirements of section 31-4-503 (4), candidates shall have not less than~~
5 ~~ten calendar days beginning on the first calendar day after the governing~~
6 ~~body sets the date for the recall election within which to circulate~~
7 ~~nominating petitions, and such petitions shall be filed no later than~~
8 ~~forty-five days prior to such recall election.~~

9 (4.5) THE CLERK SHALL TRANSMIT A BALLOT AND BALLOTING
10 MATERIALS TO A COVERED VOTER, AS DEFINED IN SECTION 1-8.3-102 (2),
11 C.R.S., NO LATER THAN THIRTY DAYS BEFORE AN ELECTION CONDUCTED
12 IN ACCORDANCE WITH THIS PART 5.

13 **SECTION 8.** In Colorado Revised Statutes, **add** 31-10-102.8 as
14 follows:

15 **31-10-102.8. Military and overseas voters - timely**
16 **transmission, casting, and receipt of ballot.** (1) THE CLERK SHALL
17 TRANSMIT A BALLOT AND BALLOTING MATERIALS TO A COVERED VOTER,
18 AS DEFINED IN SECTION 1-8.3-102 (2), C.R.S., NO LATER THAN FORTY-FIVE
19 DAYS BEFORE AN ELECTION CONDUCTED IN ACCORDANCE WITH THIS
20 ARTICLE.

21 (2) TO BE VALID, A BALLOT MUST BE RECEIVED BY THE CLERK NOT
22 LATER THAN THE CLOSE OF POLLS, OR THE VOTER SHALL SUBMIT THE
23 BALLOT FOR MAILING, ELECTRONIC TRANSMISSION, OR OTHER AUTHORIZED
24 MEANS OF DELIVERY NOT LATER THAN 7:00 P.M. ON THE DATE OF THE
25 ELECTION.

26 (3) A VALID BALLOT CAST IN ACCORDANCE WITH SUBSECTION (2)
27 OF THIS SECTION SHALL BE COUNTED IF IT IS RECEIVED BY THE CLOSE OF

1 BUSINESS ON THE EIGHTH DAY AFTER AN ELECTION AT THE ADDRESS THAT
2 THE CLERK HAS SPECIFIED.

3 SECTION 9. In Colorado Revised Statutes, amend 31-10-103 as
4 follows:

5 31-10-103. Computation of time. Calendar days shall be used in
6 all computations of time made under the provisions of this article. In
7 computing time for any act to be done before any municipal election, the
8 first day shall be included, and the last, or election, day shall be excluded.
9 Saturdays, Sundays, and legal holidays shall be included, but, if the time
10 for any act to be done or the last day of any period is a Saturday, Sunday,
11 or a legal holiday, the period is extended to include the next day which is
12 not a Saturday, Sunday, or legal holiday. If the time for ending the
13 circulation of and filing nomination petitions provided by section
14 31-10-302, the time for withdrawing from nomination provided by
15 section 31-10-303 (1), ~~the time prior to which vacancies in nominations~~
16 ~~may be filled and by which certificates of nomination or petitions to fill~~
17 ~~such vacancies may be filed as provided by section 31-10-304~~, or the time
18 for filing amended or new petitions to remedy objections as provided by
19 section 31-10-305 falls on Saturday, Sunday, or a legal holiday, such act
20 shall be done upon the preceding day which is not a Saturday, Sunday, or
21 legal holiday.

22 SECTION 10. In Colorado Revised Statutes, amend 31-10-108
23 as follows:

24 31-10-108. Special elections. Special elections shall be held on
25 any Tuesday designated by ordinance or resolution of the governing body.
26 No special election shall be held within the ninety days preceding a
27 regular election. No special election shall be called within ~~thirty~~ SIXTY

1 days before the date thereof, nor shall any special election be held within
2 the thirty-two days before or after the date of a primary, general, or
3 congressional vacancy election. A special election may be held at the
4 same time and place as a primary, congressional vacancy, or general
5 election as a coordinated election pursuant to section 1-7-116, C.R.S., or
6 may be conducted at the same time as a mail ballot election pursuant to
7 article 7.5 of title 1, C.R.S. Special elections shall be conducted as nearly
8 as practicable in the same manner as regular elections.

9 **SECTION 11.** In Colorado Revised Statutes, 31-10-303, **amend**
10 (1) as follows:

11 **31-10-303. Withdrawal from nominations.** (1) Any person who
12 has been nominated and who has accepted a nomination may cause his OR
13 HER name to be withdrawn from such nomination at any time prior to
14 ~~twenty-three~~ SIXTY-THREE days before election by a written affidavit
15 withdrawing from such nomination. The affidavit stating withdrawal shall
16 be signed by the candidate and filed with the clerk.

17 **SECTION 12.** In Colorado Revised Statutes, **repeal** 31-10-304
18 as follows:

19 **31-10-304. Vacancies in nominations.** ~~(1) If any candidate dies~~
20 ~~or withdraws from the nomination prior to twenty-three days before the~~
21 ~~day of election, the vacancy may be filled by the vacancy committee, if~~
22 ~~any, designated on the nomination petition or, if no vacancy committee~~
23 ~~is designated, by petition in the same manner required for original~~
24 ~~nomination. If any petition of nomination is insufficient or inoperative~~
25 ~~because of failure to remedy or cure the same, the vacancy thus~~
26 ~~occasioned may be filled by petition in the same manner required for~~
27 ~~original nomination.~~

1 ~~(2) Any certificate of nomination or petition to fill a vacancy shall~~
2 ~~be filed with the clerk not later than the twentieth day before the day of~~
3 ~~election.~~

4 **SECTION 13.** In Colorado Revised Statutes, **amend** 31-10-305
5 as follows:

6 **31-10-305. Objections to nominations.** All petitions of
7 nomination and affidavits ~~which~~ THAT are in apparent conformity with the
8 provisions of section 31-10-302, as determined by the clerk, are valid
9 unless objection thereto is duly made in writing within three days after the
10 filing of the same. In case objection is made, notice thereof shall be
11 forthwith mailed to any candidate who may be affected thereby. The clerk
12 shall decide objections within at least forty-eight hours after the same are
13 filed, and any objections sustained may be remedied or defect cured upon
14 the original petition, by an amendment thereto, or by filing a new petition
15 within three days after the objection is sustained, but in no event later
16 than the ~~eighteenth~~ SIXTY-FOURTH day before the day of election. The
17 clerk shall pass upon the validity of all objections, whether of form or
18 substance, and the clerk's decisions upon matters of form shall be final.
19 The clerk's decisions upon matters of substance shall be open to review
20 if prompt application is made, as provided in section 31-10-1401, but the
21 remedy in all cases shall be summary, and the decision of the district
22 court shall be final and not subject to review by any other court; except
23 that the supreme court, in the exercise of its discretion, may review any
24 proceeding in a summary way.

25 **SECTION 14.** In Colorado Revised Statutes, 31-10-909, **repeal**
26 (1) (b) and (1) (c) as follows:

27 **31-10-909. Nomination of candidates in mail ballot elections.**

1 (1) Any person who desires to be a candidate for a municipal office in a
2 mail ballot election conducted pursuant to this part 9 after May 1, 2014,
3 shall comply with the nominating procedures set forth in this article;
4 except that:

5 (b) ~~A withdrawal from nomination must proceed as set forth in~~
6 ~~section 31-10-303; except that the withdrawal affidavit must be filed by~~
7 ~~the close of business on the sixty-third day prior to the election.~~

8 (c) ~~If any candidate dies or withdraws from nomination prior to~~
9 ~~the close of business on the sixty-third day prior to the election, the~~
10 ~~vacancy in nomination is filled as set forth in section 31-10-304.~~

11 **SECTION 15.** In Colorado Revised Statutes, **amend** 31-10-1201
12 as follows:

13 **31-10-1201. Returns - canvass.** The returns of all municipal
14 elections shall be made to the clerk of the municipality. The clerk shall
15 request the assistance of the mayor of the municipality in conducting the
16 canvass of votes. If there is no mayor or if the mayor has been a candidate
17 at the election, the clerk shall appoint a municipal judge, a member of the
18 election commission, or a person who is qualified to be an election judge
19 and who did not serve as an election judge in the election as an assistant.
20 No later than ~~seven~~ TEN days after the election, the clerk, in the presence
21 of the assistant, shall open the returns and make out abstracts of votes for
22 each office.

23 **SECTION 16.** In Colorado Revised Statutes, 31-10-1207, **amend**
24 (1) and (2) as follows:

25 **31-10-1207. Recount.** (1) The municipal clerk shall conduct a
26 recount of the votes cast in any election if it appears, as evidenced by the
27 survey of returns, that the difference between the highest number of votes

1 cast in the election and the next highest number of votes cast in the
2 election is less than or equal to one-half of one percent of the highest
3 number of votes cast in the election. Any recount conducted pursuant to
4 this subsection (1) shall be completed no later than the ~~tenth~~ FIFTEENTH
5 day following the election and shall be paid for by the governing body.
6 The clerk shall give notice of the recount to all candidates and, in the case
7 of a ballot issue or question, to any petition representatives identified
8 pursuant to sections 31-2-221 (1), 31-4-502 (1) (a) (I), and 31-11-106 (2)
9 that are affected by the result of the election. Such notice shall be given
10 by certified mail, by posting such notice in three public places within the
11 municipal limits, or by other means reasonably expected to notify the
12 affected candidates or petition representatives. Any affected candidate or
13 petition representative ~~shall be~~ IS allowed to be present during and
14 observe the recount.

15 (2) Whenever a recount of the votes cast in an election is not
16 required pursuant to subsection (1) of this section, any interested party,
17 including a candidate for office or the petition representatives for a ballot
18 issue or question, may submit to the clerk a written request for a recount
19 at the expense of the interested party making the request. This request
20 shall be filed with the clerk within ~~seven~~ TEN days after the election.
21 Before conducting the recount, the clerk shall give notice of the recount
22 in accordance with the provisions of subsection (1) of this section, shall
23 determine the cost of the recount, shall notify the interested party that
24 requested the recount of such cost, and shall collect the cost of conducting
25 the recount from such interested party. The interested party that requested
26 the recount shall pay on demand the cost of the recount to the clerk. The
27 funds paid to the clerk for the recount shall be placed in escrow for

1 payment of all expenses incurred in the recount. If, after the recount, the
2 result of the election is reversed in favor of the interested party that
3 requested the recount or if the amended election count is such that a
4 recount otherwise would have been required pursuant to subsection (1) of
5 this section, the payment for expenses shall be refunded to the interested
6 party who paid them. Any recount of votes conducted pursuant to this
7 subsection (2) shall be completed no later than the ~~tenth~~ FIFTEENTH day
8 after the election.

9 **SECTION 17. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly (August 5, 2015, if adjournment sine die is on May 6,
13 2015); except that, if a referendum petition is filed pursuant to section 1
14 (3) of article V of the state constitution against this act or an item, section,
15 or part of this act within such period, then the act, item, section, or part
16 will not take effect unless approved by the people at the general election
17 to be held in November 2016 and, in such case, will take effect on the
18 date of the official declaration of the vote thereon by the governor.

19 (2) This act applies to elections conducted on or after the
20 applicable effective date of this act.