

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.

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

20 **SECTION 6.** In Colorado Revised Statutes, **add 31-10-102.8** as
21 follows:

22 **31-10-102.8. Military or overseas voters – timely transmission,**
23 **casting, and receipt of ballot.** (1) AS USED IN THIS SECTION, "TRANSMIT
24 A BALLOT" MEANS SENDING A BALLOT AND BALLOT MATERIALS TO A
25 MILITARY OR OVERSEAS VOTER BY FACSIMILE OR ELECTRONIC MAIL, AS
26 INDICATED ON THE LIST OF MILITARY OR OVERSEAS VOTERS OBTAINED
27 FROM THE COUNTY CLERK AND RECORDER IN ACCORDANCE WITH

1 SUBSECTION (5) OF THIS SECTION. "TRANSMIT A BALLOT" DOES NOT
2 INCLUDE ELECTRONIC TRANSMISSION BY SOCIAL MEDIA OR OTHER
3 INTERNET APPLICATIONS.

4 (2) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b) OF
5 THIS SUBSECTION (2), THE CLERK SHALL MAIL OR TRANSMIT A BALLOT AND
6 BALLOT MATERIALS TO ANY PERSON DESIGNATED AS A MILITARY OR
7 OVERSEAS VOTER IN THE COMPUTERIZED STATEWIDE VOTER
8 REGISTRATION DATABASE NO LATER THAN FORTY-FIVE DAYS BEFORE AN
9 ELECTION CONDUCTED IN ACCORDANCE WITH THIS ARTICLE; EXCEPT THAT,
10 IF THE CLERK RECEIVES A CERTIFICATE OF NEW REGISTRATION FROM A
11 MILITARY OR OVERSEAS VOTER AFTER THE FORTY-FIFTH DAY BEFORE THE
12 ELECTION, THE CLERK SHALL MAIL OR TRANSMIT A BALLOT TO THE VOTER
13 AS SOON AS PRACTICABLE.

14 (b) IN A RECALL ELECTION CONDUCTED IN ACCORDANCE WITH PART
15 5 OF ARTICLE 4 OF THIS TITLE, THE CLERK SHALL MAIL OR TRANSMIT A
16 BALLOT TO ANY PERSON DESIGNATED AS A MILITARY OR OVERSEAS VOTER
17 IN THE COMPUTERIZED STATEWIDE VOTER REGISTRATION DATABASE AS
18 SOON AS PRACTICABLE AFTER BALLOT CERTIFICATION.

19 (3) TO BE VALID, A MILITARY OR OVERSEAS VOTER MUST SUBMIT
20 THE BALLOT FOR MAILING OR TRANSMIT THE BALLOT AND COMPLETED
21 SIGNED AFFIRMATION, AS SPECIFIED IN SECTION 1-8.3-114, C.R.S., SIGNED
22 BY THE COVERED VOTER BY FACSIMILE OR ELECTRONIC MAIL, NOT LATER
23 THAN 7:00 P.M. MOUNTAIN TIME ON THE DATE OF THE ELECTION.

24 (4) THE DESIGNATED ELECTION OFFICIAL MUST COUNT A VALID
25 BALLOT RECEIVED IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION
26 IF THE BALLOT IS RECEIVED BY THE CLOSE OF BUSINESS ON THE EIGHTH
27 DAY AFTER THE ELECTION.

1 (5) NO LATER THAN SIXTY DAYS BEFORE THE ELECTION, THE
2 COUNTY CLERK AND RECORDER OF THE COUNTY IN WHICH THE
3 MUNICIPALITY IS LOCATED MUST FORWARD TO THE MUNICIPAL CLERK A
4 COMPLETE LIST OF VOTERS IN THE MUNICIPALITY WHO ARE MARKED AS
5 MILITARY OR OVERSEAS VOTERS IN THE COMPUTERIZED STATEWIDE VOTER
6 REGISTRATION DATABASE.

7 (6) A MILITARY OR OVERSEAS VOTER WHO REQUESTED AND
8 RECEIVED BALLOT MATERIALS BY FACSIMILE OR ELECTRONIC MAIL MAY
9 ALSO RETURN THE BALLOT AND AFFIDAVIT SPECIFIED IN SUBSECTION (3)
10 OF THIS SECTION BY FACSIMILE OR ELECTRONIC MAIL IN CIRCUMSTANCES
11 WHERE RETURNING THE BALLOT BY MAIL OR VOTING IN PERSON IS NOT
12 AVAILABLE OR IS NOT FEASIBLE DUE TO OPERATIONS TEMPO, TEMPORARY
13 DUTY, OR DEPLOYMENT.

14 **SECTION 7.** In Colorado Revised Statutes, **amend** 31-10-103 as
15 follows:

16 **31-10-103. Computation of time.** Calendar days shall be used in
17 all computations of time made under the provisions of this article. In
18 computing time for any act to be done before any municipal election, the
19 first day shall be included, and the last, or election, day shall be excluded.
20 Saturdays, Sundays, and legal holidays shall be included, but, if the time
21 for any act to be done or the last day of any period is a Saturday, Sunday,
22 or a legal holiday, the period is extended to include the next day which is
23 not a Saturday, Sunday, or legal holiday. If the time for ending the
24 circulation of and filing nomination petitions provided by section
25 31-10-302, the time for withdrawing from nomination provided by
26 section 31-10-303 (1), ~~the time prior to which vacancies in nominations~~
27 ~~may be filled and by which certificates of nomination or petitions to fill~~

1 such vacancies may be filed as provided by section 31-10-304, or the time
2 for filing amended or new petitions to remedy objections as provided by
3 section 31-10-305 falls on Saturday, Sunday, or a legal holiday, such act
4 shall be done upon the preceding day which is not a Saturday, Sunday, or
5 legal holiday.

6 **SECTION 8.** In Colorado Revised Statutes, **amend** 31-10-108 as
7 follows:

8 **31-10-108. Special elections.** Special elections shall be held on
9 any Tuesday designated by ordinance or resolution of the governing body.
10 No special election shall be held within the ninety days preceding a
11 regular election. No special election shall be called within ~~thirty~~ SIXTY
12 days before the date thereof, nor shall any special election be held within
13 the thirty-two days before or after the date of a primary, general, or
14 congressional vacancy election. A special election may be held at the
15 same time and place as a primary, congressional vacancy, or general
16 election as a coordinated election pursuant to section 1-7-116, C.R.S., or
17 may be conducted at the same time as a mail ballot election pursuant to
18 article 7.5 of title 1, C.R.S. Special elections shall be conducted as nearly
19 as practicable in the same manner as regular elections.

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

22 **31-10-303. Withdrawal from nominations.** (1) Any person who
23 has been nominated and who has accepted a nomination may cause his OR
24 HER name to be withdrawn from such nomination at any time prior to
25 ~~twenty-three~~ SIXTY-THREE days before election by a written affidavit
26 withdrawing from such nomination. The affidavit stating withdrawal shall
27 be signed by the candidate and filed with the clerk.

1 **SECTION 10.** In Colorado Revised Statutes, **repeal** 31-10-304
2 as follows:

3 **31-10-304. Vacancies in nominations.** ~~(1) If any candidate dies~~
4 ~~or withdraws from the nomination prior to twenty-three days before the~~
5 ~~day of election, the vacancy may be filled by the vacancy committee, if~~
6 ~~any, designated on the nomination petition or, if no vacancy committee~~
7 ~~is designated, by petition in the same manner required for original~~
8 ~~nomination. If any petition of nomination is insufficient or inoperative~~
9 ~~because of failure to remedy or cure the same, the vacancy thus~~
10 ~~occasioned may be filled by petition in the same manner required for~~
11 ~~original nomination.~~

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

15 **SECTION 11.** In Colorado Revised Statutes, **amend** 31-10-305
16 as follows:

17 **31-10-305. Objections to nominations.** All petitions of
18 nomination and affidavits ~~which~~ THAT are in apparent conformity with the
19 provisions of section 31-10-302, as determined by the clerk, are valid
20 unless objection thereto is duly made in writing within three days after the
21 filing of the same. In case objection is made, notice thereof shall be
22 forthwith mailed to any candidate who may be affected thereby. The clerk
23 shall decide objections within at least forty-eight hours after the same are
24 filed, and any objections sustained may be remedied or defect cured upon
25 the original petition, by an amendment thereto, or by filing a new petition
26 within three days after the objection is sustained, but in no event later
27 than the ~~eighteenth~~ SIXTY-FOURTH day before the day of election. The

1 clerk shall pass upon the validity of all objections, whether of form or
2 substance, and the clerk's decisions upon matters of form shall be final.
3 The clerk's decisions upon matters of substance shall be open to review
4 if prompt application is made, as provided in section 31-10-1401, but the
5 remedy in all cases shall be summary, and the decision of the district
6 court shall be final and not subject to review by any other court; except
7 that the supreme court, in the exercise of its discretion, may review any
8 proceeding in a summary way.

9 **SECTION 12.** In Colorado Revised Statutes, 31-10-909, **repeal**
10 (1) (b) and (1) (c) as follows:

11 **31-10-909. Nomination of candidates in mail ballot elections.**

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

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

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

22 **SECTION 13.** In Colorado Revised Statutes, **amend** 31-10-1201
23 as follows:

24 **31-10-1201. Returns - canvass.** The returns of all municipal
25 elections shall be made to the clerk of the municipality. The clerk shall
26 request the assistance of the mayor of the municipality in conducting the
27 canvass of votes. If there is no mayor or if the mayor has been a candidate

1 at the election, the clerk shall appoint a municipal judge, a member of the
2 election commission, or a person who is qualified to be an election judge
3 and who did not serve as an election judge in the election as an assistant.
4 No later than ~~seven~~ TEN days after the election, the clerk, in the presence
5 of the assistant, shall open the returns and make out abstracts of votes for
6 each office.

7 **SECTION 14.** In Colorado Revised Statutes, 31-10-1207, **amend**
8 (1) and (2) as follows:

9 **31-10-1207. Recount.** (1) The municipal clerk shall conduct a
10 recount of the votes cast in any election if it appears, as evidenced by the
11 survey of returns, that the difference between the highest number of votes
12 cast in the election and the next highest number of votes cast in the
13 election is less than or equal to one-half of one percent of the highest
14 number of votes cast in the election. Any recount conducted pursuant to
15 this subsection (1) shall be completed no later than the ~~tenth~~ FIFTEENTH
16 day following the election and shall be paid for by the governing body.
17 The clerk shall give notice of the recount to all candidates and, in the case
18 of a ballot issue or question, to any petition representatives identified
19 pursuant to sections 31-2-221 (1), 31-4-502 (1) (a) (I), and 31-11-106 (2)
20 that are affected by the result of the election. Such notice shall be given
21 by certified mail, by posting such notice in three public places within the
22 municipal limits, or by other means reasonably expected to notify the
23 affected candidates or petition representatives. Any affected candidate or
24 petition representative ~~shall be~~ IS allowed to be present during and
25 observe the recount.

26 (2) Whenever a recount of the votes cast in an election is not
27 required pursuant to subsection (1) of this section, any interested party,

1 including a candidate for office or the petition representatives for a ballot
2 issue or question, may submit to the clerk a written request for a recount
3 at the expense of the interested party making the request. This request
4 shall be filed with the clerk within ~~seven~~ TEN days after the election.
5 Before conducting the recount, the clerk shall give notice of the recount
6 in accordance with the provisions of subsection (1) of this section, shall
7 determine the cost of the recount, shall notify the interested party that
8 requested the recount of such cost, and shall collect the cost of conducting
9 the recount from such interested party. The interested party that requested
10 the recount shall pay on demand the cost of the recount to the clerk. The
11 funds paid to the clerk for the recount shall be placed in escrow for
12 payment of all expenses incurred in the recount. If, after the recount, the
13 result of the election is reversed in favor of the interested party that
14 requested the recount or if the amended election count is such that a
15 recount otherwise would have been required pursuant to subsection (1) of
16 this section, the payment for expenses shall be refunded to the interested
17 party who paid them. Any recount of votes conducted pursuant to this
18 subsection (2) shall be completed no later than the ~~tenth~~ FIFTEENTH day
19 after the election.

20 **SECTION 15. Act subject to petition - effective date -**
21 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
22 the expiration of the ninety-day period after final adjournment of the
23 general assembly (August 5, 2015, if adjournment sine die is on May 6,
24 2015); except that, if a referendum petition is filed pursuant to section 1
25 (3) of article V of the state constitution against this act or an item, section,
26 or part of this act within such period, then the act, item, section, or part
27 will not take effect unless approved by the people at the general election

1 to be held in November 2016 and, in such case, will take effect on the
2 date of the official declaration of the vote thereon by the governor.

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