

**First Regular Session
Sixty-third General Assembly
STATE OF COLORADO**

ENGROSSED

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

LLS NO. 01-0615.01 Jason Gelender

SENATE BILL 01-074

SENATE SPONSORSHIP

Fitz-Gerald

HOUSE SPONSORSHIP

(None)

Senate Committees

Govt, Veterans & Military Relations, & Trans

House Committees

A BILL FOR AN ACT

101 **CONCERNING AUTHORIZATION FOR ANY ELECTION TO BE CONDUCTED**
102 **BY MAIL BALLOT.**

Bill Summary

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

Allows any election to be conducted by mail ballot at the discretion of the governing body of a political subdivision conducting an election that is not part of a coordinated election or the board of county commissioners of a county that is conducting a coordinated election. Requires the election official conducting a mail ballot primary election to mail ballots to all registered voters who have declared an affiliation with a major political party. Specifies procedures by which an unaffiliated eligible elector may declare affiliation with a major political party, obtain

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
Amended 2nd Reading
February 26, 2001

a primary election mail ballot, and vote in a mail ballot primary election.
Defines terms. Makes conforming amendments.

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

2
3 **SECTION 1.** 1-7.5-103 (1) and (4), Colorado Revised Statutes,
4 are amended, and the said 1-7.5-103 is further amended BY THE
5 ADDITION OF A NEW SUBSECTION, to read:

6 **1-7.5-103. Definitions.** As used in this article, unless the context
7 otherwise requires:

8 (1) ~~"Designated election official" means official as defined in~~
9 ~~section 1-1-104 (8).~~ "COORDINATED ELECTION OFFICIAL" MEANS THE
10 COUNTY CLERK AND RECORDER OF A COUNTY CONDUCTING A
11 COORDINATED ELECTION.

12 (1.5) "DESIGNATED ELECTION OFFICIAL" HAS THE SAME MEANING
13 AS SET FORTH IN SECTION 1-1-104 (8).

14 (4) "Mail ballot election" means an election for which eligible
15 electors may cast ballots by mail and in accordance with this article. ~~in~~
16 ~~an election that involves only nonpartisan candidates or ballot questions~~
17 ~~or ballot issues.~~

18 **SECTION 2. Repeal.** 1-7.5-104 (2), Colorado Revised Statutes,
19 is repealed as follows:

20 **1-7.5-104. Mail ballot elections - optional.** _____
21 _____

22 (2) ~~Notwithstanding the provisions of subsection (1) of this~~
23 ~~section, a mail ballot election shall not be held for:~~

24 (a) ~~Elections or recall elections that involve partisan candidates;~~

25 (b) ~~Elections held in conjunction with, or on the same day as, a~~

1 ~~primary or congressional vacancy election.~~

2 **SECTION 3.** 1-7.5-105 (1), (2), and (3), Colorado Revised
3 Statutes, are amended to read:

4 **1-7.5-105. Preelection process.** (1) The designated election
5 official OR COORDINATED ELECTION OFFICIAL responsible for conducting
6 an election that is to be by mail ballot pursuant to section 1-7.5-104 (1)
7 shall notify the secretary of state no later than fifty-five days prior to the
8 election. The notification shall include a proposed plan for conducting the
9 mail ballot election, which may be based on the standard plan adopted by
10 the secretary of state.

11 (2) The secretary of state shall approve or disapprove the written
12 plan for conducting a mail ballot election, in accordance with section
13 1-7.5-106, within fifteen days after receiving the plan and shall provide
14 a written notice to the affected political subdivision, OR, IN THE CASE OF
15 A COORDINATED ELECTION, TO EACH AFFECTED POLITICAL SUBDIVISION,
16 THE AFFECTED COUNTY, AND THE COORDINATED ELECTION OFFICIAL.

17 (3) The designated election official OR COORDINATED ELECTION
18 OFFICIAL shall supervise the distributing, handling, counting of ballots,
19 and the survey of returns in accordance with rules promulgated by the
20 secretary of state as provided in section 1-7.5-106 (2) and shall take the
21 necessary steps to protect the confidentiality of the ballots cast and the
22 integrity of the election.

23 **SECTION 4.** 1-7.5-107 (3), (4), and (5), Colorado Revised
24 Statutes, are amended to read:

25 **1-7.5-107. Procedures for conducting mail ballot election.**
26 (3) (a) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a.7) OF THIS
27 SUBSECTION (3), not sooner than twenty-five days before an election, and

1 no later than ~~fifteen~~ EIGHTEEN days before an election, the designated
2 election official, OR THE COORDINATED ELECTION OFFICIAL IF SO
3 PROVIDED BY AN INTERGOVERNMENTAL AGREEMENT, shall mail to each
4 active registered elector, at the last mailing address appearing in the
5 registration records and in accordance with United States postal service
6 regulations, a mail ballot packet, which shall be marked "DO NOT
7 FORWARD. ADDRESS CORRECTION REQUESTED", or any other
8 similar statement that is in accordance with United States postal service
9 regulations; except that ~~with prior approval from the secretary of state, the~~
10 ~~packets shall be sent no later than ten days before election day~~ THIS
11 PARAGRAPH (a) SHALL NOT APPLY TO MUNICIPAL OR SPECIAL DISTRICT
12 ELECTIONS.

13 (a.5) (I) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
14 THIS SUBSECTION (3), AND EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH
15 (a.7) OF THIS SUBSECTION (3), NOT SOONER THAN TWENTY-FIVE DAYS
16 BEFORE A PRIMARY ELECTION AND NO LATER THAN EIGHTEEN DAYS BEFORE
17 A PRIMARY ELECTION, AND NO LATER THAN FIFTEEN DAYS BEFORE A
18 PRIMARY ELECTION, THE DESIGNATED ELECTION OFFICIAL, OR THE
19 COORDINATED ELECTION OFFICIAL IF SO PROVIDED BY AN
20 INTERGOVERNMENTAL AGREEMENT, SHALL MAIL ONLY TO EACH ACTIVE
21 REGISTERED ELECTOR THAT HAS DECLARED A MAJOR POLITICAL PARTY
22 AFFILIATION, AT THE LAST MAILING ADDRESS APPEARING IN THE
23 REGISTRATION RECORDS AND IN ACCORDANCE WITH UNITED STATES POSTAL
24 SERVICE REGULATIONS, A MAIL BALLOT PACKET, WHICH SHALL BE MARKED
25 "DO NOT FORWARD. ADDRESS CORRECTION REQUESTED", OR
26 ANY OTHER SIMILAR STATEMENT THAT IS IN ACCORDANCE WITH UNITED
27 STATES POSTAL SERVICE REGULATIONS.

1 as "Inactive" on the county voter registration records or, for special
2 district mail ballot elections, on the list of property owners or the
3 registration list but who are authorized to vote pursuant to section
4 32-1-806, C.R.S., or other applicable law.

5 (d) (I) An eligible elector may obtain a replacement ballot if the
6 ballot was destroyed, spoiled, lost, or for some other reason not received
7 by the eligible elector. An eligible elector may obtain a ballot if a mail
8 ballot packet was not sent to the elector because the eligibility of the
9 elector could not be determined at the time the mail ballot packets were
10 mailed. In order to obtain a ballot in such cases, the eligible elector must
11 sign a sworn statement specifying the reason for requesting the ballot.
12 The statement shall be presented to the designated election official, OR TO
13 THE COORDINATED ELECTION OFFICIAL IF SO PROVIDED BY AN
14 INTERGOVERNMENTAL AGREEMENT, no later than 7 p.m. on election day.
15 The designated election official OR COORDINATED ELECTION OFFICIAL shall
16 keep a record of each ballot issued in accordance with this paragraph (d)
17 together with a list of each ballot obtained pursuant to paragraph (c) of
18 this subsection (3).

19 (II) A designated election official OR A COORDINATED ELECTION
20 OFFICIAL shall not transmit a mail ballot packet under this paragraph (d)
21 unless a sworn statement requesting the ballot is received on or before
22 election day. A ballot may be transmitted directly to the eligible elector
23 requesting the ballot at the designated election official's office, THE
24 COORDINATED ELECTION OFFICIAL'S OFFICE IF SO PROVIDED BY AN
25 INTERGOVERNMENTAL AGREEMENT, or the office designated in the mail
26 ballot plan filed with the secretary of state or may be mailed to the eligible
27 elector at the address provided in the sworn statement. Ballots may be

1 cast no later than 7 p.m. on election day.

2 (e) (I) AN ELIGIBLE ELECTOR WHO DID NOT RECEIVE A BALLOT FOR
3 A PRIMARY ELECTION BECAUSE THE ELECTOR WAS _____
4 AN UNAFFILIATED ELECTOR AT THE TIME THE BALLOTS WERE MAILED TO
5 AFFILIATED REGISTERED ELECTORS MAY OBTAIN A BALLOT AND VOTE IN
6 THE PRIMARY ELECTION BY APPLYING TO THE DESIGNATED ELECTION
7 OFFICIAL, OR TO THE COORDINATED ELECTION OFFICIAL IF SO PROVIDED BY
8 AN INTERGOVERNMENTAL AGREEMENT, DECLARING AN AFFILIATION TO THE
9 OFFICIAL, AND MARKING AND RETURNING THE BALLOT TO THE OFFICIAL NO
10 LATER THAN 7 P.M. ON ELECTION DAY.

11 (II) A DESIGNATED OR COORDINATED ELECTION OFFICIAL SHALL
12 NOT TRANSMIT A BALLOT PURSUANT THIS PARAGRAPH (e) UNLESS THE
13 ELIGIBLE ELECTOR'S DECLARATION OF PARTY AFFILIATION IS MADE AND
14 RECEIVED ON OR BEFORE ELECTION DAY. THE OFFICIAL MAY TRANSMIT THE
15 BALLOT DIRECTLY TO THE ELIGIBLE ELECTOR REQUESTING THE BALLOT AT
16 THE OFFICIAL'S OFFICE OR AT THE OFFICE DESIGNATED IN THE MAIL BALLOT
17 PLAN FILED WITH THE SECRETARY OF STATE OR MAY MAIL THE BALLOT TO
18 THE ELIGIBLE ELECTOR AT THE LAST MAILING ADDRESS PROVIDED IN THE
19 REGISTRATION RECORDS, OR IF DIFFERENT, THE ADDRESS PROVIDED BY THE
20 ELECTOR. BALLOTS MAY BE CAST NO LATER THAN 7 P.M. ON ELECTION
21 DAY.

22 (4) (a) Upon receipt of a ballot, the eligible elector shall mark the
23 ballot, sign, DATE, and complete PROVIDE HIS OR HER DATE OF BIRTH ON
24 the return-verification envelope IN ACCORDANCE WITH ANY RULES
25 PROMULGATED BY THE SECRETARY OF STATE THAT PERTAIN TO THE
26 COMPLETION OF RETURN VERIFICATION ENVELOPES and comply with the
27 instructions provided with the ballot.

1 (4) (b) The eligible elector OR A MEMBER OF THE ELIGIBLE
2 ELECTOR'S IMMEDIATE FAMILY may return the marked ballot to the
3 designated election official, OR TO THE COORDINATED ELECTION OFFICIAL
4 IF SO PROVIDED BY AN INTERGOVERNMENTAL AGREEMENT, by United
5 States mail or by depositing the ballot at _____ the office of the
6 official or any place designated by the official A SECURE DROP-OFF SITE
7 DESIGNATED BY THE OFFICIAL AND OUTLINED IN THE MAIL BALLOT PLAN.
8 ALTERNATIVELY, THE ELIGIBLE ELECTOR ONLY MAY RETURN THE MARKED
9 BALLOT TO THE OFFICIAL BY MARKING THE BALLOT AT A PRIVATE, SECURE
10 LOCATION DESIGNATED BY THE OFFICIAL AND OUTLINED IN THE MAIL
11 BALLOT PLAN. The ballot must be returned in the return-verification
12 envelope. If an eligible elector returns the ballot by mail, the elector must
13 provide postage. The ballot shall be received at the office of the
14 designated election official, THE COORDINATED ELECTION OFFICIAL IF SO
15 PROVIDED BY AN INTERGOVERNMENTAL AGREEMENT, or a designated
16 depository, which shall remain open until 7 p.m. on election day.

17 (5) Once the ballot is returned, an election judge shall first qualify
18 the submitted ballot by examining VERIFYING THE ELIGIBLE ELECTOR'S
19 DATE OF BIRTH AND, IF NECESSARY, EXAMINING OTHER INFORMATION
20 PROVIDED ON the return-verification envelope and comparing the
21 information on the envelope to the registration records to determine
22 whether the ballot was submitted by an eligible elector who has not
23 previously voted in the election. If the ballot so qualifies and is otherwise
24 valid, the election judge shall indicate in the poll book that the eligible
25 elector cast a ballot, open the return-verification envelope, remove the
26 ballot stub, and deposit the ballot in an official ballot box.

27 **SECTION 5.** 1-7.5-107.5, Colorado Revised Statutes, is amended to

1 read:

2 **1-7.5-107.5. Counting mail ballots.** The election officials at the
3 mail ballot counting place may receive and prepare mail ballots delivered
4 and turned over to them by the designated election official OR THE
5 COORDINATED ELECTION OFFICIAL for tabulation. Counting of the mail
6 ballots may begin ten days prior to the election and continue until
7 counting is completed. The election official in charge of the mail ballot
8 counting place shall take all precautions necessary to ensure the secrecy
9 of the counting procedures, and no information concerning the count shall
10 be released by the election officials or watchers until after 7 p.m. on
11 election day.

12 **SECTION 6.** 1-7.5-109, Colorado Revised Statutes, is amended
13 to read:

14 **1-7.5-109. Write-in candidates.** Write-in candidates shall be
15 allowed on mail ballot elections provided that the candidate has filed an
16 affidavit of intent with the designated election official pursuant to section
17 1-4-1101; EXCEPT THAT A WRITE-IN CANDIDATE FOR A PRESIDENTIAL
18 PRIMARY ELECTION SHALL ALSO PAY A NONREFUNDABLE FEE AS REQUIRED
19 BY SECTION 1-4-1205 (1). Ballots for write-in candidates are to be
20 counted pursuant to section 1-7-114.

21 **SECTION 7.** 1-7.5-110, Colorado Revised Statutes, is amended
22 to read:

23 **1-7.5-110. Challenges.** Votes cast pursuant to this article may be
24 challenged pursuant to and in accordance with law. Any mail ballot
25 election held pursuant to this article shall not be invalidated on the
26 grounds that an eligible elector did not receive a ballot so long as the
27 designated election official for the political subdivision conducting the

1 election OR THE COORDINATED ELECTION OFFICIAL FOR THE COUNTY
2 CONDUCTING THE ELECTION acted in good faith in complying with the
3 provisions of this article or with rules promulgated by the secretary of
4 state.

5 **SECTION 8.** Article 7.5 of title 1, Colorado Revised Statutes, is
6 amended BY THE ADDITION OF NEW SECTION to read:

7 **1-7.5-113. Voting at group facilities.** (1) NOTWITHSTANDING
8 ANY OTHER PROVISION OF THIS ARTICLE, WHEN MORE THAN FIVE MAIL
9 BALLOTS ARE TO BE SENT TO THE SAME GROUP RESIDENTIAL FACILITY
10 WITHIN A COUNTY, WHICH INCLUDES BUT IS NOT LIMITED TO, NURSING
11 HOMES, SENIOR CITIZEN HOUSING FACILITIES, AND HOMELESS SHELTERS, A
12 COMMITTEE CONSISTING OF ONE EMPLOYEE OF THE DESIGNATED ELECTION
13 OFFICIAL, OR ONE EMPLOYEE OF THE COORDINATED ELECTION OFFICIAL IF
14 SO PROVIDED BY AN INTERGOVERNMENTAL AGREEMENT, AND, WHERE
15 AVAILABLE, A REPRESENTATIVE APPOINTED BY EACH OF THE MAJOR
16 POLITICAL PARTIES SHALL DELIVER THE ABSENTEE BALLOTS AND RETURN
17 THOSE BALLOTS TO THE OFFICE OF THE OFFICIAL.

18 (2) FOR NONPARTISAN ELECTIONS, UPON THE REQUEST OF AN
19 ELIGIBLE ELECTOR, THE DESIGNATED ELECTION OFFICIAL, OR THE
20 COORDINATED ELECTION OFFICIAL IF SO PROVIDED BY AN
21 INTERGOVERNMENTAL AGREEMENT, MAY APPOINT A COMMITTEE THAT
22 CONSISTS OF TWO OR MORE ELECTION JUDGES OR EMPLOYEES OR
23 REPRESENTATIVES OF THE OFFICIAL.

24 **SECTION 9.** 1-2-218.5 (2), Colorado Revised Statutes, is
25 amended to read:

26 **1-2-218.5. Declaration of affiliation.** (2) Any eligible elector
27 who has not declared an affiliation with a political party or political

1 organization shall be designated on the registration records of the county
2 clerk and recorder as "unaffiliated". Any unaffiliated eligible elector may
3 declare a major political party affiliation when the elector desires to vote
4 at a primary election, as provided in section 1-7-201 (2), OR IN THE CASE
5 OF A MAIL BALLOT PRIMARY ELECTION, AS PROVIDED IN SECTION 1-7.5-107
6 (3) (e), or the elector may declare his or her political party or political
7 organization affiliation at any other time during which electors are
8 permitted to register by submitting a letter or a form furnished by the
9 county clerk and recorder, either by mail or in person.

10 **SECTION 10.** 1-4-1202 (2), Colorado Revised Statutes, is
11 amended to read:

12 **1-4-1202. Presidential primary elections - when - conduct.**

13 (2) Each political party ~~which~~ THAT has a qualified candidate entitled to
14 participate in the Colorado presidential primary election pursuant to
15 section 1-4-1203 is entitled to participate in the primary election and shall
16 have a separate party ballot. At the presidential primary election, an
17 elector may vote only for a candidate on the ballot of the political party
18 to which the elector has declared an affiliation. An unaffiliated eligible
19 elector may declare an affiliation to the election judges at the presidential
20 primary election as provided in section 1-7-201 OR, IN THE CASE OF A MAIL
21 BALLOT PRESIDENTIAL PRIMARY ELECTION, AS PROVIDED IN SECTION
22 1-7.5-107(3)(e). The presidential primary election for all political parties
23 shall be held at the same time and at the same polling places and shall be
24 conducted by the same election officials.

25

26

27 **SECTION 11.** 1-7-201, Colorado Revised Statutes, is amended

1 BY THE ADDITION OF A NEW SUBSECTION to read:

2 **1-7-201. Voting at primary election.** (6) NOTWITHSTANDING
3 ANY OTHER PROVISION OF THIS SECTION, VOTING FOR CANDIDATES AT A
4 PRIMARY ELECTION CONDUCTED BY MAIL BALLOT SHALL BE DONE AS
5 REQUIRED BY ARTICLE 7.5 OF THIS TITLE.

6 **SECTION 12. Safety clause.** The general assembly hereby finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, and safety.