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Colorado Secretary of State

**PROPOSED INITIATIVE 58 - ORIGINAL VERSION**

Be it enacted by the People of the State of Colorado:

Article 2 of Title 40 of the Colorado Revised Statutes is amended by the addition of the following section:

**40-2-128 PROCEDURE FOR EXEMPTION – ELECTION.**

(1) ANY QUALIFYING RETAIL UTILITY, COOPERATIVE ELECTRIC ASSOCIATION, OR MUNICIPALLY OWNED UTILITY MAY, BY THE AFFIRMATIVE VOTE OF A MAJORITY OF ITS CUSTOMERS OR MEMBERS CASTING BALLOTS, EXEMPT ITSELF FROM ALL OR PART OF THE REQUIREMENTS OF §40-2-124 C.R.S., OR ITS SUCCESSOR SECTION, AS WELL AS ALL ASSOCIATED STANDARDS FOR APPROVAL OF ADDITIONAL GENERATION OR ENERGY RESOURCES.

(2) THE QUALIFYING RETAIL UTILITY, COOPERATIVE ELECTRIC ASSOCIATION, OR MUNICIPALLY OWNED UTILITY MUST CONDUCT AN ELECTION AT WHICH ITS MEMBERS OR CUSTOMERS MAY VOTE TO EXEMPT IT FROM ALL OR PART OF THE REQUIREMENTS OF §40-2-124 C.R.S., OR ITS SUCCESSOR SECTION IF:

(a) ITS BOARD OF DIRECTORS OR GOVERNING BOARD PASSES A RESOLUTION OR MOTION TO HOLD AN ELECTION SEEKING AN EXEMPTION; OR

(b) FIVE PERCENT OF ITS CUSTOMERS OR MEMBERS SIGN A PETITION REQUESTING AN ELECTION SEEKING EXEMPTION.

(3) PETITION REQUIREMENTS.

(a) EACH PETITION SHALL INCLUDE THE NAMES AND ADDRESSES OF TWO PROPONENTS, WHO SHALL REPRESENT THE CUSTOMERS OR MEMBERS SIGNING THE PETITION. PROPONENTS MUST BE ELIGIBLE TO VOTE ON THE QUESTION OF EXEMPTION.

(b) EACH PETITION SECTION SHALL CONTAIN:

(I) THE PROPOSED QUESTION OF EXEMPTION;

(II) A STATEMENT THAT ONLY CUSTOMERS OR MEMBERS OF THE UTILITY OR ASSOCIATION MAY SIGN THE PETITION; AND

(III) A STATEMENT ENCOURAGING SIGNERS TO READ THE QUESTION OF EXEMPTION, AND INFORMING SIGNERS THAT BY SIGNING THE PETITION THEY ARE INDICATING THAT THEY WISH THE PROPOSED QUESTION OF EXEMPTION TO BE VOTED UPON.

(c) EVERY SIGNER MUST INCLUDE HIS OR HER NAME, SIGNATURE, STREET ADDRESS, AND CITY. EACH SIGNATURE MUST ALSO BE DATED.

(d) EVERY SIGNATURE MUST BE WITNESSED BY A PETITION CIRCULATOR. THE PETITION CIRCULATOR MUST SWEAR OR AFFIRM THAT HE OR SHE WITNESSED THE PERSON'S SIGNATURE ON THE DATE AFFIXED TO EACH SIGNATURE.

(e) DUTIES OF UTILITY OR ASSOCIATION.

(I) THE UTILITY OR ASSOCIATION MUST APPROVE THE PETITION FORMAT PRIOR TO THE CIRCULATION OF PETITION SECTIONS OR COLLECTION OF SIGNATURES. APPROVAL MAY NOT BE UNREASONABLY WITHHELD.

(II) THE UTILITY OR ASSOCIATION MUST REVIEW ALL SIGNATURES TO DETERMINE THE SIGNERS' ELIGIBILITY, THE VALIDITY OF EACH SIGNATURE, AND THE NUMBER OF INDIVIDUAL SIGNATURES.

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(III) IN REVIEWING SIGNATURES, SUBSTANTIAL COMPLIANCE SHALL BE ALL THAT IS NECESSARY FOR APPROVAL OF SIGNATURES.

(IV) PROPONENTS MAY SUBMIT SIGNATURES UP TO SIX MONTHS FOLLOWING THE DATE OF THE UTILITY OR ASSOCIATION'S APPROVAL OF THE PETITION FORMAT.

(4) CONDUCT OF ELECTIONS.

(a) ANY ELECTION MUST BE HELD NO LESS THAN SIXTY AND NO MORE THAN ONE HUNDRED TWENTY DAYS AFTER THE BOARD OF DIRECTORS PASSES A RESOLUTION OR MOTION, OR AFTER RECEIPT OF A VALID PETITION.

(b) THE UTILITY OR ASSOCIATION MUST CONDUCT THE ELECTION BY MAIL. EACH CUSTOMER OR MEMBER SHALL RECEIVE AND BE ENTITLED TO VOTE ONE BALLOT FOR EACH ELECTRIC METER FOR WHICH THE CUSTOMER HAS AN ACCOUNT WITH THE UTILITY.

(c) EACH BALLOT SHALL INCLUDE THE FOLLOWING:

(I) A NOTICE EXPLAINING IN PLAIN TERMS THE STATUTORY REQUIREMENTS AT ISSUE.

(II) THE QUESTION OF EXEMPTION. THE QUESTION MUST SET FORTH IN PLAIN LANGUAGE WHETHER THE UTILITY SHOULD BE EXEMPT FROM THE REQUIREMENTS OF §40-2-124 C.R.S. OR ITS SUCCESSOR SECTION, OR SUCH SPECIFIC REQUIREMENTS IDENTIFIED BY THE RESOLUTION, MOTION, OR PETITION CALLING THE ELECTION. THE QUESTION OF EXEMPTION SHALL BE IN A FORM THAT MAY BE ANSWERED "YES" (TO SUPPORT THE QUESTION OF EXEMPTION) OR "NO" (TO OPPOSE THE QUESTION OF EXEMPTION).

(III) A STATEMENT OF NO MORE THAN THREE HUNDRED WORDS SUPPORTING THE QUESTION OF EXEMPTION. IN THE CASE OF A RESOLUTION OR MOTION, THE STATEMENT IN SUPPORT SHALL BE PROVIDED BY THE BOARD OF DIRECTORS OR GOVERNING BOARD. IN THE CASE OF A PETITION, THE STATEMENT IN SUPPORT SHALL BE PROVIDED BY THE PROPONENTS OF THE PETITION.

(IV) A STATEMENT OPPOSING THE QUESTION OF EXEMPTION. THIS STATEMENT SHALL BE THE ARGUMENTS FOR AMENDMENT 37 CONTAINED IN THE "ANALYSIS OF 2004 BALLOT PROPOSALS," PUBLISHED BY THE LEGISLATIVE COUNCIL OF THE COLORADO GENERAL ASSEMBLY, RESEARCH PUBLICATION No. 527-1.

(d) NO EXEMPTION MAY TAKE EFFECT UNLESS TWENTY PERCENT OR MORE OF ALL ELIGIBLE BALLOTS ARE CAST IN THE ELECTION.

(5) IF A UTILITY OR ASSOCIATION HAS EXEMPTED ITSELF FROM ALL OR PART OF § 40-2-124 C.R.S. OR ITS SUCCESSOR SECTION, THE PROMOTION OF ELIGIBLE ENERGY RESOURCES AS DEFINED IN §40-2-124(A) C.R.S. OR ITS SUCCESSOR SECTION SHALL NOT BE A CONSIDERATION IN ANY DECISION MADE BY THE COMMISSION OR THE GOVERNING BOARD OF ANY UTILITY OR ASSOCIATION REGARDING THE ACQUISITION OF ADDITIONAL GENERATION OR ENERGY RESOURCES, INCLUDING ACQUISITION OF ENERGY BY CONTRACT, REBATE, OR SUBSIDY.