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#176 Final Draft Colorado Secretary of State

Proposed Title: A change to the Colorado Revised Statutes concerning the requirement of a primary runoff election for the nomination of political party candidates for statewide office, and, in connection therewith, moving the date of the primary election to April and, if required, setting the runoff primary election date in June.

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

SECTION 1. In Colorado Revised Statutes, 1-1-104, **amend** (32) and (51) and **add** (43.3) as follows:

1-1-104. Definitions

(32) "Primary election" means the election held on the ~~last~~ THIRD Tuesday in ~~June~~ APRIL of each even-numbered year.

(43.3) "RUNOFF PRIMARY ELECTION" IS A CONTINUATION OF THE PRIMARY ELECTION WHICH, WHEN REQUIRED UNDER SECTION 1-4-104, IS HELD ON THE LAST TUESDAY IN JUNE FOLLOWING THE PRIMARY ELECTION.

(51) "Watcher" means an eligible elector other than a candidate on the ballot who has been selected by a political party chairperson on behalf of the political party, by a party candidate at a primary election OR RUNOFF PRIMARY ELECTION, by an unaffiliated candidate at a general, congressional vacancy, or nonpartisan election, or by a person designated by either the opponents or the proponents in the case of a ballot issue or ballot question. If selected by a political party chairperson, a party candidate, or an unaffiliated candidate, the watcher must be affiliated with that political party or unaffiliated as shown in the statewide voter registration system.

SECTION 2. In Colorado Revised Statutes, 1-4-101, **amend** (1), (2)(b) and (c), (3) and (5) as follows:

1-4-101. Primary elections - when - nominations – expenses.

(1) Except as provided in section 1-4-104.5, a primary election shall be held on the ~~last~~ THIRD Tuesday in ~~June~~ APRIL of even-numbered years to nominate candidates of political parties to be voted for at the succeeding general election. IF REQUIRED UNDER SECTION 1-4-104, A RUNOFF PRIMARY ELECTION SHALL BE HELD ON THE LAST TUESDAY IN JUNE FOLLOWING THE PRIMARY ELECTION. Except as provided by section 1-4-1304 (1.5), only a major political party, as defined in section 1-1-104 (22), is entitled to nominate candidates in a primary election OR RUNOFF PRIMARY ELECTION.

(2)(b) The county clerk and recorder shall send to all active electors in the county who have not declared an affiliation or provided a ballot preference with a political party a mailing that contains the ballots of all of the major political parties. WHEN A RUNOFF PRIMARY ELECTION IS

REQUIRED UNDER SECTION 1-4-104, THE COUNTY CLERK AND RECORDER SHALL SEND TO ALL ACTIVE ELECTORS IN THE COUNTY WHO HAVE NOT DECLARED AN AFFILIATION OR PROVIDED A BALLOT PREFERENCE WITH A POLITICAL PARTY A MAILING THAT CONTAINS THE BALLOTS OF ALL OF THE MAJOR POLITICAL PARTIES FOR WHICH A RUNOFF PRIMARY ELECTION IS REQUIRED. In this mailing, the clerk shall also provide written instructions advising the elector of the manner in which the elector will be in compliance with the requirements of this code in selecting and casting the ballot of a major political party. An elector may cast the ballot of only one major political party. After selecting and casting a ballot of a single major political party, the elector shall return the ballot to the clerk. If an elector casts and returns to the clerk the ballot of more than one major political party, all such ballots returned will be rejected and will not be counted.

(c) The secretary of state may by rule adopt additional ballot requirements necessary to avoid voter confusion in voting in primary elections AND RUNOFF PRIMARY ELECTIONS.

(3) All nominations by major political parties for candidates for United States senator, representative in congress, all elective state, district, and county officers, and members of the general assembly shall be made by primary elections OR RUNOFF PRIMARY ELECTIONS; except that, for general elections occurring after January 1, 2001, nominations by major political parties for candidates for lieutenant governor shall not be made by primary elections OR RUNOFF PRIMARY ELECTIONS and shall be made pursuant to section 1-4-502 (3). Neither the secretary of state nor any county clerk and recorder shall place on the official general election ballot the name of any person as a candidate of any major political party who has not been nominated in accordance with the provisions of this article, or who has not been affiliated with the major political party for the period of time required by section 1-4-601, or who does not meet residency requirements for the office, if any. The information found on the voter registration record of the county of current or previous residence of the person seeking to be placed on the ballot is admissible as prima facie evidence of compliance with this article.

(5) All expenses incurred in the preparation or conduct of the primary election AND RUNOFF PRIMARY ELECTION shall be paid out of the treasury of the county or state, as the case may be, in the same manner as for general elections.

SECTION 3. In Colorado Revised Statutes, amend 1-4-104 as follows:

1-4-104. Party nominees AND RUNOFF PRIMARY ELECTIONS.

(1) AT A PRIMARY ELECTION, A CANDIDATE FOR GOVERNOR, SECRETARY OF STATE, TREASURER, OR ATTORNEY GENERAL MUST RECEIVE A MAJORITY OF THE TOTAL NUMBER OF VOTES RECEIVED BY ALL OF A POLITICAL PARTY'S CANDIDATES FOR THAT OFFICE IN ORDER TO BE NOMINATED BY THAT POLITICAL PARTY. FOR PURPOSES OF THIS SECTION, "A MAJORITY" MEANS FIFTY PERCENT OR MORE OF THE TOTAL NUMBER OF VOTES RECEIVED BY ALL OF A POLITICAL PARTY'S CANDIDATES FOR THAT OFFICE. IF AT ANY PRIMARY ELECTION NO CANDIDATE FOR NOMINATION BY A POLITICAL PARTY TO SUCH OFFICE RECEIVES A MAJORITY, ONLY THE TWO CANDIDATES FOR THAT OFFICE RECEIVING THE HIGHEST NUMBER OF VOTES AT THAT POLITICAL PARTY'S PRIMARY ELECTION SHALL BE PLACED ON THE OFFICIAL BALLOT AS CANDIDATES FOR NOMINATION BY THAT POLITICAL PARTY TO THAT OFFICE AT A RUNOFF PRIMARY ELECTION.

THE NAMES OF THE NOMINEES SELECTED AT A PRIMARY ELECTION OR A RUNOFF PRIMARY ELECTION SHALL BE PRINTED ON THE OFFICIAL BALLOT PREPARED FOR THE ENSUING GENERAL ELECTION.

(2) (a) EXCEPT AS PROVIDED IN THIS SECTION, THE RUNOFF PRIMARY ELECTION SHALL BE CONDUCTED IN THE SAME MANNER AS IS PROVIDED BY LAW FOR A PRIMARY ELECTION.

(b) CANDIDATES SHALL BE PLACED ON THE RUNOFF PRIMARY ELECTION BALLOT IN THE ORDER OF THE VOTES RECEIVED IN THE PRIMARY ELECTION.

(c) IN A RUNOFF PRIMARY ELECTION, ONLY THOSE VOTES CAST FOR THE CANDIDATES DESIGNATED FOR THE RUNOFF SHALL BE COUNTED IN THE TABULATION AND CANVASS OF THE VOTES CAST. THE PERSON RECEIVING THE MAJORITY OF THE VOTES CAST FOR THE OFFICE AT THE RUNOFF PRIMARY ELECTION SHALL BE NOMINATED.

(3) Candidates voted on for OTHER offices at primary elections who receive a plurality of the votes cast shall be the respective party nominees for the respective offices. If more than one office of the same kind is to be filled, the number of candidates equal to the number of offices to be filled receiving the highest number of votes shall be the nominees of the political party for the offices. The names of the nominees shall be printed on the official ballot prepared for the ensuing general election.

SECTION 4. In Colorado Revised Statutes, 1-4-502, **amend** (3)(a) as follows:

1-4-502. Methods of nomination for partisan candidates

(3)(a) The nomination of a major political party for lieutenant governor shall be made by the party's candidate for governor. No later than seven days following the primary election OR PRIMARY RUNOFF ELECTION, the party's candidate for governor shall select a candidate for lieutenant governor. Other nominations for the office of lieutenant governor may be made by petition for nomination of an unaffiliated candidate as provided in section 1-4-802 or by a minor political party as provided in section 1-4-1304 (2).

SECTION 5. In Colorado Revised Statutes, 1-4-1005, **amend** (1) and (2) and **add** (6) as follows:

1-4-1005. Vacancies in major party nomination occurring from the day after primary election day through the earliest day to mail general election ballots

(1) For the purposes of this section, a vacancy is caused by the declination, death, disqualification, or withdrawal of the person nominated at the primary election OR RUNOFF PRIMARY ELECTION.

(2) A vacancy in a party nomination occurring from the day after the primary election OR RUNOFF PRIMARY ELECTION through the earliest day to mail general election ballots may be filled by the respective party assembly vacancy committee of the district, county, or state, depending upon the office for which the vacancy in nomination has occurred. The party assembly vacancy committee must be appointed by the party in accordance with party rules.

(6)(a) WHEN A RUNOFF PRIMARY ELECTION IS REQUIRED, IN THE EVENT OF THE WITHDRAWAL, DEATH, OR INELIGIBILITY OF A CANDIDATE IN A RUNOFF PRIMARY ELECTION THE REMAINING CANDIDATES RECEIVING THE TWO HIGHEST NUMBERS OF VOTES IN THE PRIMARY ELECTION SHALL BE THE CANDIDATES IN THE RUNOFF PRIMARY ELECTION.

(b) WHEN THE WITHDRAWAL, DEATH, OR INELIGIBILITY OF A CANDIDATE OCCURS PRIOR TO THE BALLOTS BEING PRINTED, THE DESIGNATED ELECTION OFFICIAL SHALL CAUSE THE NAMES OF THE REMAINING CANDIDATES RECEIVING THE TWO HIGHEST NUMBERS OF VOTES IN THE PRIMARY ELECTION TO BE PRINTED ON THE RUNOFF PRIMARY ELECTION BALLOT.

(c) WHEN SUCH WITHDRAWAL, DEATH, OR INELIGIBILITY OF A CANDIDATE OCCURS AFTER RUNOFF PRIMARY ELECTION BALLOTS ARE PRINTED, THE DESIGNATED ELECTION OFFICIAL SHALL:

(I) PROMINENTLY POST, ON THE DESIGNATED ELECTION OFFICIAL'S OFFICIAL WEBSITE AND IN EACH VOTER SERVICE AND POLLING CENTER, A NOTICE REGARDING THE WITHDRAWAL, DEATH, OR INELIGIBILITY OF THE CANDIDATE AND THE NAME OF THE REPLACEMENT CANDIDATE;

(II) EITHER CAUSE TO BE PRINTED AND PLACED ON THE SAMPLE BALLOT DELIVERED TO THE ELECTION JUDGES AND POSTED PURSUANT TO SECTION 1-5-413 A STICKER OF A DIFFERENT COLOR THAN THE SAMPLE BALLOT INDICATING THE NAME OF THE REPLACEMENT CANDIDATE OR REPRINT THE SAMPLE BALLOT WITH THE NAME OF THE REPLACEMENT CANDIDATE IN A DIFFERENT COLOR; AND

(III) COUNT VOTES CAST FOR THE WITHDRAWN, DECEASED, OR INELIGIBLE CANDIDATE AS VOTES FOR THE REPLACEMENT CANDIDATE.

SECTION 6. In Colorado Revised Statutes, 1-4-1006, **amend** (1) as follows:

1-4-1006. Vacancies in major party nomination occurring from the day after the earliest day to mail general election ballots through general election day

(1) For the purposes of this section, a vacancy is caused by the declination, death, disqualification, or withdrawal of the person nominated at the primary election OR RUNOFF PRIMARY ELECTION.

SECTION 7. Effective date –applicability. This act takes effect July 1, 2019, and applies to elections held on or after said date.