



NOTICE OF ADOPTION

Office of the Secretary of State
Election Rules
8 CCR 1505-1

March 20, 2009

Pursuant to sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2008) and the rulemaking provisions of the State Administrative Procedure Act, section 24-4-103 C.R.S. (2008), I, Bernie Buescher, Colorado Secretary of State, do hereby adopt and give **NOTICE** of the permanent rule adoption this 20th day of March, 2009, of the Secretary of State Election Rules (8 CCR 1505-1) as follows (additions to the current rules are reflected in **SMALL CAPS** and deletions from current rules are shown in ~~stricken type~~).

New Rule 2.17 is adopted as follows:

- 2.17 **WHEN A COUNTY CLERK AND RECORDER DEEMS AN APPLICANT "NOT REGISTERED" UPON RECEIPT OF AN UNDELIVERABLE NEW VOTER NOTIFICATION IN ACCORDANCE WITH SECTION 1-2-509(3), C.R.S., THE APPLICANT SHALL BE MAILED A CONFIRMATION CARD BY FORWARDABLE MAIL. THE CONFIRMATION CARD SHALL HAVE A POSTAGE PREPAID RETURNABLE PORTION THAT IS PREAMBITTED TO THE SENDING COUNTY CLERK AND RECORDER.**
- 2.17.1 **IF THE COUNTY CLERK AND RECORDER RECEIVES A SIGNED CONFIRMATION CARD WITHIN 90 DAYS FROM AN APPLICANT WHO WAS DEEMED "NOT REGISTERED" IN ACCORDANCE WITH SECTION 1-2-509(3), C.R.S., THE APPLICANT SHALL BE DEEMED REGISTERED AS OF THE DATE OF THE ORIGINAL APPLICATION.**
- 2.17.2 **DURING THE 28 DAYS PRIOR TO AN ELECTION, IF AN APPLICANT WHO HAS BEEN DEEMED "NOT REGISTERED" IN ACCORDANCE WITH SECTION 1-2-509(3), C.R.S., COMPLETES A CERTIFICATE OF REGISTRATION AND PRESENTS IDENTIFICATION IN PERSON AT THE OFFICE OF THE COUNTY CLERK AND RECORDER, THE APPLICANT SHALL BE DEEMED REGISTERED AS OF THE DATE OF THE ORIGINAL APPLICATION.**

New Rule 49.4 is adopted as follows:

49.4 SCORE ADVISORY BOARD

49.4.1 THE SECRETARY OF STATE SHALL ESTABLISH AN ADVISORY BOARD (THE BOARD) TO PROVIDE GUIDANCE TO THE OPERATION AND MAINTENANCE OF THE STATEWIDE COLORADO REGISTRATION AND ELECTIONS SYSTEM, KNOWN AS "SCORE". SINCE SCORE IS THE ELECTION MANAGEMENT SYSTEM USED BY COUNTY CLERK AND RECORDERS TO CARRY OUT THEIR LEGAL RESPONSIBILITIES FOR THE CONDUCT OF ELECTIONS IN THEIR COUNTIES, A FORMAL USER GROUP IS NECESSARY TO ENSURE COUNTY REPRESENTATION IN DECISIONS AFFECTING THE USABILITY AND FUNCTIONALITY OF THE SYSTEM.

49.4.2 DUTIES OF THE BOARD. THE BOARD SHALL PROVIDE GUIDANCE REGARDING THE OPERATION AND MAINTENANCE OF THE SCORE SYSTEM, INCLUDING BUT NOT LIMITED TO USER TRAINING, HELP DESK REQUIREMENTS, SERVICE LEVEL AGREEMENTS, VENDOR EVALUATION, AND THE IDENTIFICATION, DEVELOPMENT, AND PRIORITIZATION OF FUTURE ENHANCEMENTS TO FUNCTIONALITY OF THE SYSTEM.

49.4.3 BOARD MEMBERSHIP.

49.4.3.1 THE BOARD MEMBERSHIP SHALL INCLUDE EIGHT COLORADO COUNTY CLERK AND RECORDERS OR EMPLOYEES OF COUNTY CLERK AND RECORDERS' OFFICES WHOSE DUTIES INCLUDE ELECTION ADMINISTRATION. THE EIGHT MEMBERS SHALL BE NOMINATED BY AGREEMENT OF A MAJORITY OF THE COUNTY CLERK AND RECORDERS OR BY AGREEMENT OF THE CHOSEN REPRESENTATIVES OF THE COUNTY CLERK AND RECORDERS. THE NOMINATED MEMBERS SHALL BE ACCEPTED BY THE SECRETARY OF STATE UNLESS THE NOMINATIONS CLEARLY FAIL TO MEET THE CRITERIA ESTABLISHED IN PARAGRAPH A OF THIS RULE 49.4.3.1.

A. TO THE EXTENT FEASIBLE, MEMBERSHIP SHALL BE BALANCED POLITICALLY AND GEOGRAPHICALLY, AND WITH BALANCE AMONG COUNTIES WITH VARYING POPULATIONS. TO FURTHER ENSURE BALANCED REPRESENTATION, COUNTY CLERK AND RECORDERS SHOULD CONSIDER OTHER RELEVANT FACTORS INCLUDING, BUT NOT LIMITED TO, VOTING SYSTEMS VENDOR, PREFERENCE OF PAPER OR ELECTRONIC VOTING, AND USE OF VOTE CENTERS OR POLLING PLACES.

B. THE SECRETARY OF STATE MAY APPOINT UP TO TWO ADDITIONAL MEMBERS AS MAY BE NECESSARY TO PRESERVE A REPRESENTATIONAL BALANCE IN ACCORDANCE WITH THE CRITERIA ESTABLISHED IN PARAGRAPH A OF THIS RULE 49.4.3.1.

49.4.3.2 THE SECRETARY OF STATE MAY APPOINT UP TO TWO ADDITIONAL MEMBERS OF THE BOARD AS MAY BE NECESSARY TO REPRESENT THE PUBLIC INTEREST

49.4.3.3 THE SECRETARY OF STATE, OR HIS OR HER DESIGNEE, SHALL BE AN EX OFFICIO MEMBER AND SHALL CHAIR THE BOARD.

49.4.3.4 THE SECRETARY OF STATE'S OFFICE SHALL PROVIDE STAFF SUPPORT TO THE BOARD.

49.4.4 MEETINGS AND VOTING.

49.4.4.1 THE BOARD SHALL MEET NO FEWER THAN FOUR TIMES ANNUALLY. MEETINGS SHALL BE OPEN TO THE PUBLIC EXCEPT WHEN CLOSED BY THE AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE MEMBERS PRESENT TO DISCUSS CONFIDENTIAL MATTERS SUCH AS PERSONNEL OR SYSTEM SECURITY.

49.4.4.2 THE BOARD MUST HAVE A QUORUM PRESENT FOR A VOTE TO BE TAKEN. MEMBERS MAY ATTEND AND VOTE BY TELEPHONE WHEN PERSONAL ATTENDANCE IS NOT PRACTICABLE.

49.4.4.3 BOARD MEMBERS AND THE CHAIR SHALL EACH HAVE ONE VOTE ON ANY MATTER. THE SECRETARY OF STATE MAY VETO ANY DECISION OF THE BOARD BY WRITTEN OBJECTION GIVING THE REASONS THEREFOR.

49.4.4.4 FROM TIME TO TIME, THE BOARD MAY REQUEST PARTICIPATION OR INFORMATION TO BE PROVIDED BY COUNTY CLERK AND RECORDERS OR THEIR ELECTIONS STAFF, POLITICAL PARTIES, VENDORS, TECHNICAL EXPERTS, OR OTHER MEMBERS OF THE PUBLIC, AS MAY BE APPROPRIATE.

49.4.5 ADVISORY BOARD CHARTER.

49.4.5.1 THE BOARD SHALL DEVELOP A CHARTER DOCUMENT DETAILING ROLES AND RESPONSIBILITIES OF THE BOARD AND SHALL PERFORM ITS DUTIES CONSISTENT WITH THE CHARTER AND THIS RULE.

49.4.5.2 THE CHARTER DOCUMENT MAY INCLUDE PROCEDURES GOVERNING TERMS OF OFFICE FOR BOARD MEMBERS, REASONS AND PROCEDURES FOR REMOVAL FROM OFFICE, AND PROCEDURES FOR FILLING VACANCIES.

These new and amended rules shall take effect twenty (20) days after publication in the Colorado Register in accordance with the State Administrative Procedures Act.

A written Statement of Basis, Purpose and Specific Statutory Authority is attached and hereby incorporated herein by reference.

Dated this 20th day of March, 2009.



William A. Hobbs
Deputy Secretary of State

For

Bernie Buescher
Colorado Secretary of State



Statement of Basis, Purpose and Specific Statutory Authority

Office of the Secretary of State Election Rules

March 20, 2009

1. Basis and Purpose

This statement pertains to the amendments to the Colorado Secretary of State Election Rules for the administration of Colorado State Constitution Article VII, and Title 1 of the Colorado Revised Statutes. The amendments are implemented to achieve the uniform and proper administration and enforcement of the election laws of the State of Colorado, including the requirements of the federal Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252. See sections 1-1.5-101 *et seq.*, C.R.S. (2008).

The amendments to these rules are necessary for the implementation of Article VII of the Colorado Constitution and Article 1, Title 1 of the Colorado Revised Statutes. Such revisions are necessary to improve the administration of elections in Colorado, and to answer questions arising under Title 1 of the Colorado Revised Statutes. These amendments are further necessary to increase the transparency and security of the election process, and to provide guidance until a legislative clarification may be proposed.

The Secretary of State finds that the adoption and enactment of these amendments is specifically necessary to provide an additional layer of protection to help ensure that eligible electors who apply for voter registration are not precluded from becoming registered because of postal or other error. The adoption of these amendments is further necessary to ensure county representation in decisions affecting the usability and functionality of the statewide voter registration database and election management system used by county clerk and recorders to carry out their legal responsibilities for the conduct of elections in their counties.

The Secretary of State therefore finds that in order to ensure the uniform and proper administration and enforcement of the election laws, the permanent adoption of the amendments to the Election Rules is necessary both to comply with law and to preserve the public welfare generally.

2. Statutory Authority

Amendments to the Colorado Secretary of State Election Rules are adopted pursuant to the following statutory provisions:

1. Section 1-1-107(2)(a), C.R.S. (2008), which authorizes the Secretary of State:

“[t]o promulgate, publish, and distribute . . . such rules as the secretary of state finds necessary for the proper administration and enforcement of the election laws.”

2. Section 1-1.5-104(1), C.R.S. (2008), which provides that:

“The secretary may exercise such powers and perform such duties as reasonably necessary to ensure that the state is compliant with all requirements imposed upon it pursuant to HAVA . . . including, without limitation, the power and duty to:

(e) Promulgate rules in accordance with the requirements of article 4 of title 24, C.R.S., as the secretary finds necessary for the proper administration, implementation, and enforcement of HAVA and of this article.”