



Regulatory Analysis of Proposed Election Rules

In accordance with section 24-4-103(4.5), C.R.S., this regulatory analysis of proposed amendments and revisions to Election Rules is provided as of February 26, 2009 for the public hearing on the proposed rules that will be held on March 3, 2009.

I. Regulatory Analysis of the proposed new Rule 2.17

1. Classes of persons who will be affected by, bear the cost of, or benefit from the proposed rule:

All new applicants for voter registration in Colorado will be affected by the proposed rule because it will clarify statutory language and provide clear guidance regarding treatment of undeliverable new voter registration notifications pursuant to section 1-2-509(3), C.R.S. By requiring additional notification by forwardable mail, the proposed rule will provide an extra layer of protection for applicants whose new voter registration notification is returned to the County Clerk and Recorder's Office as undeliverable. The requirement of an additional notification to these applicants will help ensure that eligible electors who apply for voter registration are not precluded from becoming registered because of postal or other error.

Assessing the cost impact of this proposed rule is challenging because it is difficult to estimate the number of new voter registration notifications that will be returned as undeliverable. However, given that there were fewer than 4,000 applicants whose new voter registration notifications were returned undeliverable statewide in 2008, we do not anticipate that implementation of this requirement will result in significant additional costs to the counties. Any costs associated with implementing the proposed rule would be borne by the counties and ultimately by the public.

2. Probable quantitative and qualitative impact of the proposed rule:

The proposed rule will protect applicants from potential disenfranchisement by affording them an opportunity to confirm or correct their address if they are deemed "not registered" in accordance with section 1-2-509(3), C.R.S. If their new voter notification is returned as undeliverable, then applicants would be sent an additional notification by forwardable mail, and be afforded 90 days to receive and return the mailing to the County Clerk and Recorder. This requirement serves to clarify statutory language and provide clear guidance regarding treatment of undeliverable new voter registration notifications, which should improve the administration of elections in Colorado and positively impact public confidence in the election process.

3. Cost to the agency of enforcement and effect on state revenues:

It is not anticipated that the proposed rule will result in any cost to the Secretary of State for enforcement or any impact on state revenues.

4. Cost/benefit analysis and cost of inaction:

The Secretary of State is charged with interpreting, with the assistance of the Attorney General, the provisions of Title 1, C.R.S. Current law does not provide this additional protective measure concerning undeliverable new voter registration notifications. The Secretary of State has determined that establishing an additional layer of protection and providing clarification and guidance in rule is necessary to protect voter registration applicants against postal or other error. Overall, the proposed rule will promote and ensure consistent treatment of all eligible electors. Furthermore, the proposed requirement will not result in significant additional costs to the counties or the State.

5. Less costly or less intrusive alternatives considered by the state:

Given that the Secretary of State is responsible for interpreting the provisions of Title 1, C.R.S., and that the proposed additional mailing requirement will not result in significant additional costs to the counties or the State, the proposed rule embodies the best method of providing eligible electors additional protection against disenfranchisement. Moreover, there are no feasible less costly or less intrusive alternative methods of achieving that goal. Although inaction is both less costly and less intrusive, recognizing the current potential for disenfranchisement due to postal or other error, inaction is an unacceptable alternative.

6. Alternative methods of achieving proposed results:

Given that the Secretary of State is responsible for interpreting the provisions of Title 1, C.R.S., and that the proposed additional mailing requirement will not result in significant additional costs to the counties or the State, there are no reasonably feasible alternate methods of achieving the goal of the proposed rule.

I. Regulatory Analysis of the proposed new Rule 49.4

1. Classes of persons who will be affected by, bear the cost of, or benefit from the proposed rule:

All counties in Colorado will be affected by the proposed rule because it will establish a formal user group and advisory board to provide guidance and direction to the operation and maintenance of the statewide voter registration system known as "SCORE". Counties will benefit from this proposed rule because the board will ensure county representation in decisions affecting the usability and functionality of the system. County involvement in this process is critical because 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. Any cost of the proposed rule will be administrative and will be borne by the State and the participating counties, and ultimately the public.

2. Probable quantitative and qualitative impact of the proposed rule:

The proposed rule will ensure that the counties, the users of the SCORE system, will be actively involved in decisions affecting the usability and functionality of the system. The proposed rule will provide for an advisory board that will meet at least four times per year to provide guidance and direction regarding the ongoing maintenance and

enhancement of the system. This board will represent the counties interest by providing guidance and direction regarding the operation and maintenance of the SCORE system, including issues surrounding user training, help desk requirements, service level agreements, vendor evaluation, and the identification, development, and prioritization of future enhancements to functionality of the system. Creation of the board should improve the administration of elections in Colorado and positively impact end-user confidence in the SCORE system.

3. Cost to the agency of enforcement and effect on state revenues:

It is not anticipated that the proposed rule will result in any significant cost to the Secretary of State for enforcement or any impact on state revenues.

4. Cost/benefit analysis and cost of inaction:

The Secretary of State is charged with developing, implementing and maintaining a statewide voter registration database under the Help America Vote Act of 2002 (HAVA) and Title 1 of the Colorado Revised Statutes. Because 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, the Secretary of State has determined that a formal user group is necessary to ensure county representation in decisions affecting the usability and functionality of the system. Overall, the proposed rule will promote and ensure critical county participation in this process. Further, the proposed rule will not result in significant additional costs to the counties or the State.

5. Less costly or less intrusive alternatives considered by the state:

The proposed rule embodies the best alternative of ensuring county representation in decisions affecting the usability and functionality of the SCORE system. Because the proposed rule will not result in significant costs to the State or counties, there are no feasible less costly or less intrusive alternative methods of achieving the goal of the proposed rule. Although inaction may be costly or less intrusive, inaction is not an ideal alternative because it will not achieve the goal of the proposed rule.

6. Alternative methods of achieving proposed results:

Given that the proposed rule will not result in significant additional costs to the counties or the State, there are no reasonably feasible alternate methods of achieving the goal of the proposed rule. Moreover, the Secretary of State is charged with developing, implementing and maintaining a statewide voter registration database and 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.