



Notice of Temporary Adoption

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

May 13, 2013

I. Adopted Rule Amendments

As authorized by Colorado Elections Law¹ and the State Administrative Procedure Act², the Colorado Secretary of State gives notice that the following amendments to the Election Rules³ are adopted on a temporary basis.

(Additions to the current rules are reflected in SMALL CAPS and deletions from current rules are shown in ~~stricken type~~. *Annotations* may be included):

Repeal of Rule 49.4:

49.4 SCORE Advisory Board - REPEALED

~~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~~

¹ Sections 1-1-107(2)(a) and 1-1.5-104(1)(e), C.R.S. (2012).

² Section 24-4-103(3)(a), C.R.S. (2012).

³ 8 CCR 1505-1.

~~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.~~

Repeal of Rule 50:

**Rule 50. Rules Concerning the Elections Best Practices and Vision Commission -
REPEALED**

~~50.1 Purpose~~

~~50.1.1 The Secretary of State recognizes that nonpartisan and open discussion regarding the administration and conduct of elections in Colorado is necessary to ensure that every eligible citizen has the opportunity to participate in fair, accessible, and impartial elections, and has the assurance that his or her vote will count.~~

~~50.1.2 The Secretary of State shall establish a Best Practices and Vision Commission (the Commission) to provide guidance to the Secretary of State on issues concerning the vision of elections and voting in Colorado and best practices in the administration of elections.~~

~~50.1.3 The Commission shall make recommendations to the Secretary of State regarding the development and adoption of best practices, administrative rules and legislative changes.~~

~~50.1.4 The commission shall consider all aspects of voting and elections in Colorado relevant to the development of an elections and voting vision and best practices, including but not limited to:~~

~~a. — Vision~~

~~1. — Voting technology. Investigation and analysis of new technologies and methodologies, including consideration of:~~

~~i. — Development and functionality;~~

~~ii. — Security, accuracy, and efficiency; and~~

~~iii. — Accessibility and usability.~~

~~2. — The conduct and administration of elections~~

- ~~i. Alternative methods of conducting elections, including investigation and consideration of new technologies and methodologies;~~
 - ~~ii. Evaluation and research of methods for measuring performance, quality, and success of elections;~~
 - ~~iii. Sharing information, data, and research; and~~
 - ~~iv. Auditing and recount procedures.~~
 - ~~3. Discussion of benefits to centralization versus local control regarding voter registration, vote systems, and administration of elections.~~
- ~~b. Best practices~~
 - ~~1. The conduct and administration of elections~~
 - ~~i. Election preparation, including but not limited to:

 - ~~A. Election official training and certification;~~
 - ~~B. Election judge assignment and training; and~~
 - ~~C. Polling place setup and accessibility.~~~~
 - ~~ii. Use of shared information, data and research.~~
 - ~~2. Simplicity, uniformity, and standardization~~
 - ~~i. Development of election forms, notices and education materials;~~
 - ~~ii. Ballot design and printing; and~~
 - ~~iii. Post election activities, including canvass, audit, and recount.~~
- ~~e. Costs and funding of voter registration and elections~~
 - ~~1. Investigation and discussion of measures to decrease or streamline the costs associated with the administration of elections;~~
 - ~~2. The consideration of the appropriate allocation of costs between the state and counties; and~~
 - ~~3. Exploration of alternative sources of funding for elections in Colorado.~~

- d. ~~Consideration of non-substantive legislative clarifications or corrections to address obsolete, conflicting, incomplete, or incorrect statutory provisions.~~
- e. ~~Any other elections or voting related issue that the Secretary of State or the Commission deems appropriate.~~

~~50.2 Membership of the Commission~~

~~50.2.1 Appointment and terms of service. The Secretary of State shall appoint at least 11 members to the Commission as follows:~~

- a. ~~Each member shall serve a one year term of service that will begin on June 1 and end on June 1 of the following year.~~
- b. ~~If there is a vacancy during the term, the Secretary of State shall appoint an individual to fill the vacancy. The member filling the vacancy shall serve the remainder of the one year term.~~
- e. ~~The Secretary of State may re-appoint any member following the conclusion of a term of service. Members of the Commission shall serve at the pleasure of the Secretary of State.~~

~~50.2.2 The membership shall include representation from the general public, including but not limited to:~~

- a. ~~Non profit organizations and groups that work to preserve constitutional rights and civil liberties;~~
- b. ~~Academicians, scientists, technicians, and other individuals possessing the expertise, knowledge and experience to address issues concerning voting systems and elections administration;~~
- e. ~~Current or former state or congressional legislators, or their staff, and other individuals with elections law and legislative expertise, knowledge, and experience;~~
- d. ~~County clerk and recorders or employees of county clerk and recorders' offices whose duties include elections administration;~~
- e. ~~Other designated election officials or employees of designated election officials' offices whose duties include elections administration;~~
- f. ~~Political parties; and~~
- g. ~~Voting advocacy groups.~~

~~50.2.3 The Secretary of State or his or her designee, shall be a member and shall chair the Commission.~~

~~50.2.4 The Secretary of State's office will provide staff support to the Commission as may be directed by the Secretary of State.~~

~~50.3 Meetings~~

~~50.3.1 The Commission shall meet no fewer than six times annually.~~

~~50.3.2 The meetings will be held at the office of the Secretary of State or such regional locations throughout the state as the Commission deems appropriate.~~

~~50.3.3 Meetings shall be open to the public, audio recorded, and, where feasible, broadcast over the internet via the official website of the Secretary of State; however, legislative committee or rulemaking hearing formalities need not be imposed.~~

~~50.3.4 Commission members may submit a request to attend a meeting(s) by telephone or web-based online meeting service when personal attendance is not feasible due to hardship.~~

~~50.3.5 Notices, records of meetings, written comments, and documents submitted to the commission will be published on the official website of the Secretary of State. However, documents that are otherwise publicly available need not be posted. Any submission containing inflammatory or otherwise inappropriate content will not be posted, including any material that is defamatory, irrelevant, duplicative, or obscene.~~

~~50.3.6 The Secretary of State may reimburse Commission members for reasonable expenses that are submitted and approved in advance and are consistent with the state travel policy.~~

~~50.3.7 The Commission may request participation or information to be provided by county clerks and recorders or their elections staff, political parties, vendors, technical experts, or other members of the public, as may be appropriate.~~

II. Basis, Purpose, and Specific Statutory Authority

A Statement of Basis, Purpose, and Specific Statutory Authority follows this notice and is incorporated by reference.

III. Statement of Justification and Reasons for Adoption of Temporary Rules

A statement of the Secretary of State's findings to justify the immediate adoption of these new and amended rules on a temporary basis follows this notice and is incorporated by reference.⁴

⁴ Section 24-4-103(6), C.R.S. (2012).

IV. Effective Date of Adopted Rules

These new and amended rules are immediately effective on a temporary basis.⁵

Dated this 13th day of May, 2013,



Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State

⁵ Section 24-4-103(6), C.R.S. (2012).



Statement of Basis, Purpose, and Specific Statutory Authority

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

May 13, 2013

I. Basis and Purpose

This statement explains amendments to the Colorado Secretary of State Election Rules. The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Federal and Colorado election laws.¹ The repeals below are in response to the passage of House Bill 13-1303.

The Secretary of State's Office currently chairs, staffs, and facilitates the SCORE Advisory Board and the Elections Best Practices and Vision Commission. House Bill 13-1303, however, creates the Colorado Voter Access and Modernized Elections Commission (CVAMEC) for the purpose of evaluating implementation of House Bill 13-1303 and assessing the state's voting and registration systems. CVAMEC's charge encompasses the tasks currently addressed by the SCORE Advisory Board and the Elections Best Practices and Vision Commission. As such, these existing bodies are duplicative and no longer necessary.

These temporary rules are necessary because, given the aggressive implementation schedule mandated by House Bill 13-1303, the Secretary of State's office lacks the resources to chair, staff, and facilitate both the existing committees and CVAMEC. As such, these temporary rules repeal the SCORE Advisory Board and the Elections Best Practices and Vision Commission so that the Secretary of State's office generally, and the Elections Division specifically, may focus efforts on implementing the myriad changes contained in House Bill 13-1303.

II. Rulemaking Authority

The statutory and constitutional authority is as follows:

1. Section 1-1-107(2)(a), C.R.S., (2012), which authorizes the Secretary of State "[t]o promulgate, publish and distribute...such rules as the secretary finds necessary for the proper administration and enforcement of the election laws."

¹ Article VII of the Colorado Constitution, Title 1 of the Colorado Revised Statutes, and the Help America Vote Act of 2002 ("HAVA"), P.L. No. 107-252.



Statement of Justification and Reasons for Adoption of Temporary Rules

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

May 13, 2013

Repealed Rules: 49.4 and 50

In accordance with Colorado election law,¹ the Secretary of State finds that certain amendments to the existing election rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado election laws during the 2013 election cycle. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally.

Currently, the Secretary of State's Office chairs, staffs, and facilitates the SCORE Advisory Board and the Elections Best Practices and Vision Commission. House Bill 13-1303, however, creates the Colorado Voter Access and Modernized Elections Commission (CVAMEC) for the purpose of evaluating implementation of House Bill 13-1303 and assessing the state's voting and registration systems. CVAMEC's charge encompasses the tasks currently addressed by the SCORE Advisory Board and the Elections Best Practices and Vision Commission. As such, these existing bodies are duplicative and no longer necessary.

These temporary rules are necessary because, given the aggressive implementation schedule mandated by House Bill 13-1303 and the fact that the Secretary of State's office will not receive moneys to implement the new legislation until July 1, 2013, the office lacks the resources to chair, staff, and facilitate, both the existing committees and CVAMEC. As such, these temporary rules repeal the SCORE Advisory Board and the Elections Best Practices and Vision Commission so that the Secretary of State's office generally, and the Elections Division specifically, may focus efforts on implementing the myriad changes contained in House Bill 13-1303.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing election rules is imperatively necessary to comply with state and federal law and to promote public interests.²

¹ Sections 1-1-107(1)(c), 1-1-107(2)(a), 1-1.5-104(1)(e), C.R.S. (2012). The Secretary of State has the power "[t]o promulgate, publish, and distribute...such rules as [the Secretary] finds necessary for the proper administration and enforcement of the election laws" and "...[the "Help America Vote Act of 2002", 42 U.S.C. 15301-15545]...."

² Section 24-4-103(3)(6), C.R.S. (2012).