



Notice of Temporary Adoption

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

July 22, 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 and immediately effective. (SMALL CAPS indicate proposed additions to the current rules. Stricken type indicates proposed deletions from current rules. *Annotations* may be included):

New Rule 32.6:

32.6 IN ACCORDANCE WITH SECTION 3 OF ARTICLE XXI OF THE COLORADO CONSTITUTION AND SECTION 1-12-117 (1), C.R.S., FOR PARTISAN RECALL ELECTIONS INVOLVING A STATE OFFICER, IN ORDER TO APPEAR ON THE BALLOT A SUCCESSOR CANDIDATE MUST FILE A NOMINATION PETITION WITH THE SECRETARY OF STATE NO LATER THAN TEN CALENDAR DAYS AFTER THE GOVERNOR SETS THE ELECTION DATE. A WRITE-IN CANDIDATE MUST FILE AN AFFIDAVIT OF INTENT TO RUN AS A WRITE-IN CANDIDATE NO LATER THAN THE FIFTEENTH DAY BEFORE THE ELECTION.

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 this new rule on a temporary basis follows this notice and is incorporated by reference.⁴

IV. Effective Date of Adopted Rules

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

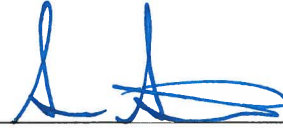
² Section 24-4-103, C.R.S. (2012).

³ 8 CCR 1505-1.

⁴ Section 24-4-103(6), C.R.S. (2012).

This new rule is immediately effective on a temporary basis.

Dated this 22nd day of July, 2013,



Suzanne Staiert
Deputy Secretary of State

For

Scott Gessler
Colorado Secretary of State



Statement of Basis, Purpose, and Specific Statutory Authority

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

July 22, 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 Colorado election laws. The revision is also intended to improve elections administration in Colorado.

Section 3 of article XXI of the Colorado constitution states that a successor candidate to a recalled officer must file his or her nominating petition with the Secretary of State “not less than fifteen days before such recall election.” Section 1-12-117 (1), C.R.S., however, states that a successor candidate must file the nominating petition no later than 10 days after the Governor sets a date for the recall election. The temporary rule harmonizes these provisions by stating that nominating petitions are due no later than 10 days after the governor sets the election, which is before the 15th day before the recall election. Under section 1-12-115, C.R.S., individuals may still run as a successor candidate by filing an affidavit of intent to run as a write-in candidate.

The statutory deadline for successor candidate petitions is necessary to ensure the county clerk and recorder conducting the election is able to meet other statutory deadlines for conducting the election, such as printing ballots and depositing ballots in the mail no later than 18 days before the election. The rule will also afford more time to the county clerks and recorders to deliver ballots to military and overseas voters.

The temporary rule is necessary given that the Governor has set the date for two recall elections: one for senate district 11 in El Paso County and one for Senate District 3 in Pueblo County. The date for both recall elections is September 10, 2013. The governor set this date on July 18, 2013. Under the temporary rule, nominating petitions for successor candidates must be filed with the Secretary of State by close of business Monday, July 29, 2013.¹

This new temporary rule provides clear filing guidance to potential candidates and to affected county clerks.

¹ The 10th calendar day after July 18th is a Sunday, so the filing deadline is extended until the next business day.

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.”



Statement of Justification and Reasons for Adoption of Temporary Rules

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

July 22, 2013

New Rule: 32.6

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.

Temporary adoption is necessary both to comply with law and to preserve the public welfare given that the Governor has set the date for two recall elections: one for senate district 11 in El Paso County and one for Senate District 3 in Pueblo County. The date for both recall elections is September 10, 2013. The governor set this date on July 18, 2013. Under the temporary rule, nominating petitions for successor candidates must be filed with the Secretary of State by close of business Monday, July 29, 2013.² This new temporary rule provides clear filing guidance to potential candidates and to affected county clerks.

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.³

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 The 10th calendar day after July 18th is a Sunday, so the filing deadline is extended until the next business day.

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