

## Andrea Gyger

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**From:** Kathleen Curry <kathleencurry@[REDACTED]>  
**Sent:** Sunday, July 31, 2011 3:27 PM  
**To:** Andrea Gyger  
**Cc:** Janice.Vos@co.pitkin.co.us; Judd Choate; Gessler Scott; 'Marilyn R Marks'; Bartels, Lynn  
**Subject:** Proposed Rule Change, 27.4

Dear Andrea,

I am writing to offer my comments on the Secretary's proposed changes to the rule regarding write-in votes. I do not support the proposed changes to:

Section 27.4.2(e)(4)  
Section 27.4.2(f)(2)  
Section 27.7.4.3

As I am certain you are aware, I was the write-in candidate that filed a lawsuit against the Secretary in the 2010 election cycle that pertained to the counting of write-in votes. We prevailed in that lawsuit and the court directed the Secretary of State to order the five county clerks in House District 61 to complete a full count of ALL ballots cast that had met the requirements of the Colorado Revised Statutes with regard to write in candidates. CRS 1-7-114 (1) sets forth the requirements for write-in votes. The law does not require a target area to be filled in but does require that the last name be included and that the name be written legibly and in the blank space provided for write-in candidates. This statute was tested and the court found that the Secretary's rules did not comport with the law and all ballots meeting the requirements of the statute had to be counted.

If the changes you propose are adopted, the rule will again violate the statute, and potential write- in candidates will have to seek injunctive relief to get all of their legitimate ballots counted. Under the rules as you have proposed, the write-in candidate will not have the ability to get all of his/her ballots counted during either the initial count or on a recount and would be forced to turn to the courts again.

If your objective is to bring your rules into compliance with the findings of the court, the proposed language does not in any way accomplish that goal. The Secretary chose not to appeal the decision of the judge in my case because of the clear statutory language. I request that you drop the proposed changes to these sections to pertaining to write-in votes, respect the findings of the court, and proceed in a manner that acknowledges the intent of the voter, complies with the laws of this state, and doesn't force candidates to sue in order to get legitimate ballots cast in their favor counted.

Kathleen E. Curry  
Former State Representative, District 61

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[REDACTED]  
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