TESTIMONY REGARDING PROPOSED ELECTION RULEMAKING
COLORADO SECRETARY OF STATE
OCTOBER 1, 2013

Project Vote appreciates this opportunity to provide commentary regarding the proposed rules published in the Notice of Rulemaking dated August 30, 2013 and updated September 26, 2013. Revised Proposed Rule 14.2.2 adds requirements for voter registration drives that are inconsistent with relevant Colorado statute and could make it significantly harder for voter registration drives to operate.

Project Vote is a national nonpartisan, nonprofit organization that promotes voting in historically underrepresented communities. Through its research, advocacy, and direct legal services, Project Vote works to ensure that these constituencies are able to fully participate in American civic life by registering and voting. Project Vote provides local community partners with the tools, training, and support to conduct successful nonpartisan voter registration drives and help increase the number of registered voters in underrepresented communities nationwide.

Proposed Changes: Proposed Rule 14.2.2 (Former Rule 44.2.2)

The proposed revised regulation requires individual circulators to take state-provided online training. Under existing rule, only voter registration drive organizers are required to take the state-sponsored training.

The current rule:

- Requires the Secretary of State to make training materials available to organizers to train circulators and requires organizers to provide training to individual circulators.
- Requires organizers to obtain and maintain on file signed attestations from each circulator that he or she will adhere to the election regulations and laws, and is aware of the penalties for mishandling voter registration forms.

The proposed revised rule:

- Eliminates the requirement for organizers to train circulators and instead requires each individual circulator to successfully complete the online training and test provided by the Secretary of State.
- Requires circulators to present the completion certificate to the VRD organizer before circulating.

These changes were added in the August 30, 2013 draft and maintained in the September 26 draft. The July 26, 2013 preliminary draft made only stylistic changes to current Rule 44.2.2.[1]

Commentary on Proposed Changes

A.   The proposed revised rule is contrary to Colorado statute.

Current statute provides for training for organizers, not for "circulators." Specifically, the training law states only the following:

---

[1] See Colorado Secretary of State, July 26, 2013 Preliminary Draft of Proposed Rules, at 92-93 (Proposed Rule 14.2.2).

- A voter registration drive *organizer* shall fulfill the training requirements established by the secretary of state by rules promulgated in accordance with article 4 of title 24, C.R.S.[2]
- A voter registration drive *organizer* that fails to fulfill the training requirements established by the secretary of state in accordance with section 1-2-701 (2) shall be punished by a fine not to exceed five hundred dollars.[3]

The statute plainly authorizes training requirements only for organizers. The legislative history further demonstrates that the statute does not authorize a state-sponsored training requirement for individual circulators. Indeed, when the training requirement was first enacted in 2005, the legislature specifically rejected a version of the bill that would have made the training requirements applicable to "any person conducting a voter registration drive" or the drive's agent.[4] Instead, the final, enacted statute made the training requirement applicable to a "voter registration drive organizer." A "voter registration drive organizer" is statutorily defined as a person who organizes a voter registration drive in the state.[5] Mere circulators are not organizers.

B.   The proposed rule interferes with the ability of voter registration drives to plan and conduct voter registration drives.

The proposed revised rule eliminates the ability of organizers to train circulators on a schedule that is convenient and appropriate for the drive—known as "train the trainer"—by requiring that a circulator must successfully complete the online training and test provided by the Secretary of State. The proposed requirement is particularly problematic for individuals without internet access who want to assist voter registration drives, as well as for drives that wish to recruit those individuals.

For example, if a voter registration drive organizer wanted to recruit a group of volunteers to meet on a Saturday morning to conduct a voter registration drive that day, under the current rule the organizer could provide the training when the volunteers arrived, provide and collect the required acknowledgments, and begin the one-day drive. However, under the proposed revised rule, the organizer would have to find a way either to provide Internet access for the group of volunteers or to require that individuals view the training before arriving at the meeting. This hurdle would stymie organizers' ability to recruit and manage circulators, especially seniors or low income individuals without ready Internet access. Larger voter registration drives also face frequent turnover, which requires the training of new circulators, often on a daily basis. Without a train-the-trainer option, drives are much less able to do this, making it harder for the drive to operate.

Conclusion

For the above reasons, Project Vote suggests that Proposed Rule 14.2.2 revert to the preliminary draft proposed on July 26, 2013, which permits the "train-the-trainer" option.

---

[2] Colo. Rev. Stat. Ann. § 1-2-701 (West) (emphasis added).
[3] Colo. Rev. Stat. Ann. § 1-2-703(2) (West) (emphasis added).
[4] See Colo. SB 05-206 (Introduced Version) § 6, Page 10:16-18, available at http://www.leg.state.co.us/clics2005a/csl.nsf/fsbillcont3/438F7319D35687C987256F5E0078CE65?open&file=206_01.pdf.
[5] Colo. Rev. Stat. § 1-1-104(50.4).