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Comments on HB 13-1303

Voter Access and Modernized Elections Act

Truth in Labeling: The Act should be called “An Act for the Support and Encouragement of Voter Fraud”

SECTION 2: Comments: The ability to register to vote up to and including election day is an open invitation to voter registration fraud. The chief recommendation of an investigative report on voter fraud in Milwaukee, WI [Ref. Milwaukee Police Department Special Investigations Unit “Report of the Investigation of the November 2, 2004 General Election in the City of Milwaukee”, http://media2.620wtmj.com/breakingnews/ElectionResults_2004_VoterFraudInvestigation_MPD-SIU-A2474926.pdf, published in 2008] was that “It is the opinion of the Task Force investigators that more than any other recommendation we could make, our investigation has concluded that the one thing that could eliminate a large percentage of fraud or the appearance of fraud in any election is the elimination of the On-Site or Same Day voter registration system.” “...there is no other way to ensure that only eligible voters are voting on election day.”

The Colorado Constitution Article VII, Section 11 commands that: “The general assembly shall pass laws to insure the purity of elections, and guard against abuses of the elective franchise.” The proposed act, HB13-1303 violates the spirit of this section of the state constitution by increasing the ease of voter registration fraud.

The second paragraph of this section declares that:

“The general assembly further finds, determines, and declares that the peoples' self-government through the electoral process is more legitimate and better accepted when voter participation increases.”

Actual public knowledge of voter fraud or the wide spread perception of voter fraud, more than any other item, destroys confidence in the electoral process, thereby directly undermining a stated purpose of this legislation.

SECTION 3, Paragraph (28) Comments: This section redefines "Polling Place" from "the place for holding elections" to "a place for holding elections" thus allowing for more than one type of place to hold elections. It is complex enough to provide for election judges, poll watchers, and other officials in one type of polling place. Multiplying the types of polling places increases the difficulty of proper oversight and opens the way for fraud. This same comment applies to paragraph (50.5).

SECTION 4, Paragraph (5)(e): This section, allowing for the transmission and receipt of ballots by electronic transmission, opens the way for fraud by eliminating an auditable paper trail. Absentee ballots have already been fraudulently requested in a Florida internet scam case [Ref. <http://www.foxnews.com/politics/2013/02/26/florida-foils-web-based-voter-fraud-plot-but-next-attempt-could-be-more-elusive/>]. This section should be eliminated.

SECTION 5 Comments: The "Colorado Voter Access and Modernized Elections Commission" created by this section is unnecessary. With the diverse nature of its members, it is almost guaranteed to accomplish nothing except provide a smokescreen for the deficiencies of this bill. The Secretary of State is the constitutional officer charged with overseeing elections and making recommendations to the legislature for improvements. The proposed commission infringes on the Secretary of State's powers as chief election officer and should be scrapped.

SECTION 6, Paragraph (b) Comments: This paragraph lowers the amount of time a person must have resided in Colorado, in order to register to vote, to 22 days. The current time is 30 days. Since it normally takes around 30 days to set up a utilities account and receive your first bill (and a utility bill is one of the accepted methods of establishing residence for voting purposes), this change in required residency time undermines one of the specified methods of voter identification.

The decrease in residency time also undermines the requirement of Section 8 of the National Voter Registration Act of 1993 ("NVRA") [42 U.S.C. Para. 1973-gg-6] which requires that "In the administration of voter registration for elections for Federal office, each State shall ...conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters...". Both the NVRA and the Colorado Election Law of 1993 allow the Secretary of State to query voters as to their eligibility and official residence by sending a mail inquiry to their registered residence. The decrease in required residency time makes it extremely difficult to

impossible for the Secretary of State to properly verify late filing potential voters' eligibility. Thus, the decrease in required residency time undermines the intent of Section VII Paragraph 11 of the State Constitution, the current election code, and the NVRA. The required minimum residency time should be left at 30 days.

The wording of this paragraph should be left as it is :

"The person has resided in this state and the precinct in which the person intends to register thirty days immediately prior to the election at which the person intends to vote but, in case of an annexation that changes county boundaries, any person otherwise qualified to register to vote under the provisions of this section, who has resided within the territory annexed for the time prescribed, shall be deemed to have met the residence requirements for the precinct to which the territory was annexed."

The proposed new wording would allow someone to register and vote in multiple precincts within the state before the Secretary of State could determine, and verify by mail, that residency conflicts existed.

SECTION 7 Comments: As in the comments on SECTION 6 above, "1-2-102 Rules for Determining Residence" (1) (e) the proposed wording of this paragraph is"

"...that person ~~shall be~~ IS considered to have lost Colorado residence after ~~thirty~~ TWENTY-TWO days' absence from this state unless..."

The original wording should be retained both for the residence time problems noted in the comments on SECTION 6 and because the phrase "SHALL BE" is legally directive whereas "IS" is open to interpretation.

In Paragraph (1) (f) I propose that the wording be modified to:

"If a person moves from one county or precinct in this state to another with the intention of making the new county or precinct a permanent residence, after thirty days the person shall be ~~is~~ considered to have gained residence in the county or precinct from TO which the person moved."

Here my proposed language is underlined and the new bill's proposed language is in strikeout. My proposed language makes it clear that the person involved has affirmatively established a new residence for the purposes of the election code.

SECTION 8 Comments: The original wording for 1-2-201 Registration Deadlines – required Para. (3)(a) should be retained and the proposed new wording struck. For clarity this paragraph is reproduced here:

~~“Any other provisions of this title to the contrary notwithstanding, electors shall be AN ELECTOR IS permitted to vote IN ANY PRIMARY, PRESIDENTIAL, GENERAL, COORDINATED, SPECIAL LEGISLATIVE, MUNICIPAL, CONGRESSIONAL VACANCY, SPECIAL DISTRICT, OR OTHER ELECTION if the elector is registered HE OR SHE TIMELY REGISTERS to vote no later than twenty-nine days before any primary, presidential, general, special legislative election, municipal, congressional vacancy, special district, or other election, and, if the twenty-ninth day before an election is a Saturday, Sunday, or legal holiday, then electors shall be permitted to register on the next day that is not a Saturday, Sunday, or legal holiday BEFORE OR ON THE DATE OF SUCH ELECTION.”~~

Here the new bill's proposed wording is in ~~strikeout~~. Retaining the original wording avoids the problems, noted above, of short notice to no notice voter registration and the concomitant problem of verifying voter eligibility prior to the election.

Subparagraph (b) (I) should be modified to retain the original 29 day minimum registration requirement before an election for the reason noted above.

Subparagraphs (II), (III), and (V) should be stricken in their entirety as they allow registration at new registration facilities which are not under the direct purview of the County Clerk and Recorder, or in the case of subparagraph (III), allows registration up to eight days before an election thus making the Secretary of State's job of voter eligibility verification impossible.

SECTION 9, Paragraph (7) Comments: The original wording should be restored requiring registration a minimum of 29 days before an election for the reasons cited above.

SECTION 10 Comments:

Subparagraph (3) (a) (I): The question ~~“Have you resided in Colorado and in the precinct in which you intend to register for at least thirty TWENTY-TWO days immediately prior to the election?”~~ should restore the 30 day requirement for residence for the reasons already noted.

Subparagraph (3) (a) (I): The question: ~~“DO YOU RESIDE IN THE PRECINCT IN WHICH YOU INTEND TO REGISTER?”~~ should be struck in its entirety as the change in the paragraph immediately above solves the problem.

Subparagraph (7) (c): This paragraph should be modified to restore the 29 day minimum requirement for registration changes prior to an election.

SECTION 12 Paragraph (2) Comments: Change the wording of the second affirmation to :“I ~~am~~ HAVE BEEN a resident of the state of Colorado FOR AT LEAST THE PAST TWENTY-NINE DAYS;”. This change makes it clear that the voter is currently residing in the state, rather than having resided in the state for twenty nine days at some time in the past, and restores the 29 day minimum residency requirement.

SECTION 13, Paragraph (4) (a) Comments: Restore the wording to “that the elector moved no later than the thirtieth day before the election and that, on the day of the election, the elector will have lived ~~BE~~LIVING at the new address in the new precinct for a minimum of 30 days”

SECTION 14 Comments: Delete all proposed changes as they authorize same day registration and voting, with the negative effects already noted.

SECTION 16 Comments: Delete the proposed changes in their entirety. This section attempts to convert “inactive voters” to “active voters” by legislative fiat. Either a voter is active or they are not. The purpose of maintaining an “inactive voter” registry is to assist the Secretary of State in the maintenance of a current list of eligible voters. Allowing “inactive voters” to be reclassified arbitrarily as “active voters”, opens the door for fraud by allowing someone other than the “inactive voter” to vote in their place.

SECTION 20 Subparagraph (3) (b) (II) (B) Comments: Change this subparagraph to:

“WITHIN ~~TWENTY TWO~~ THIRTY DAYS PRIOR TO AN ELECTION,” to maintain the minimum voter verification time required.

SECTION 22 Paragraph (2) Comments: Change to: “WITHIN ~~TWENTY TWO~~ TWENTY NINE DAYS BEFORE AN ELECTION,” This maintains the minimum voter verification time required.

SECTION 23 Comments: For paragraphs (a), (a.5), (b), (d), and (e), restore the 29 day minimum period to make registration changes before an election.