**Attachment J**

## Senator Jones

**From:** Jack Arrowsmith <JArrowsm@douglas.co.us>
**Sent:** Wednesday, April 24, 2013 7:33 AM
**To:** senatormattjones@gmail.com
**Subject:** HB 1303
**Attachments:** Colorado's Proposed Election Law 2013.pdf

Dear Senator Jones,

I am unable to attend the Senate State, Veterans and Military Affairs Committee hearing for House Bill 1303 scheduled for 1:30pm Wednesday April 24th, so I would ask that you consider this my testimony and enter it into the official record.

As you may recall, numerous individuals and four Clerks from large counties, including Douglas, attended the House State Affairs hearing and waited several hours to testify in opposition to the bill. I would like to briefly re-state my concerns.

1. This legislation is moving too fast. The issue on SCORE'S ability to handle this process is concerning. On election night 2010, SCORE went down State-wide at about 6:45pm. We had several citizens leave our election office out of frustration and while we encouraged them to vote either provisionally or wait until it came back up, they decided to leave in frustration. It would appear that the first opportunity to test SCORE under a true "load test" would be in 2014. Does in not make sense to test this process on a "demonstration" basis picking a few counties for 2014 and expanding to State-wide in 2016. This critical point of failure could give Colorado a significant black eye should the system fail.

2. Many individuals have expressed great concern for the ability to "game the system" with same day voter registration. I believe you can achieve your goal of same day registration and give our citizens confidence in the program with a few minor changes. First end the normal registration process on day eight. This has moved the normal registration process from 29 days to 8 days. Then call the process from day 7 to Election Day something like "last minute registration" and require individuals wishing to register during the period to present a State issued photo identification. For those individuals not processing the idea we could allow them to vote a provisional ballot. This allows everyone to vote and yet preserves citizen confidence in the process.

Both the legislature and the County Clerks have several responsibilities in the election process. It should not only be fair and transparent, it also should instill voter confidence. Elections are not only about process, they are also about perception. I believe you have a unique opportunity to not only improve and modernize the process, but also the ability to instill confidence and perception by making these minor changes to the legislation.

I urge you to consider these proposed changes and this legislation moves forward.

Respectfully,
Jack Arrowsmith
Douglas County Clerk and Recorder

# Colorado's Proposed Changes to Election Law 2013
# "Voter Access & Modernized Elections"

This legislation proposes a number of significant changes to Colorado's current election law and as the Douglas County Clerk having presided over numerous local and two presidential elections, my perspective is well-informed.

While there are many positive aspects within the legislation, I believe it moves Colorado too quickly in a direction surrounded by uncertainty. Therefore, I will be opposed to the current legislation as written.

In summary, regarding the proposed changes to the registration process; my preference would be to phase this registration process in over several elections, perhaps starting with a 14-day registration deadline. We can monitor the process and develop safeguards over time.

Short of a phased-in approach, I think requiring a State issued photo I.D. for those individuals wishing to register inside of eight days prior to Election Day also seems like a reasonable approach. This would go a long way in providing confidence that we are doing our best to eliminate possible voter fraud.

Total elimination of voter fraud is an unachievable goal. However, we can take steps to move in that direction. Stiffer enforcement of election laws sends a strong message and I believe should be part any election reform. I know the D.A.'s office in the 18th Judicial does an outstanding job in tracking down possible election fraud; however I think they need a better tool box in terms of fines and jail time in areas of egregious fraud.

In reading through the legislation and in various discussions over the last few days, I am convinced that a number of very thoughtful individuals have spent significant effort and time in working on this legislation. I also fully understand that people can certainly disagree on election politics, but I have tried to review the bill from a very pragmatic standpoint.

I like the fact that the bill offers a path to real savings in the election process. Every legislative year it feels like the administration and cost of elections gets more extreme and this provides some relief in that area for Douglas County.

The bill would also help to reduce voter confusion. Currently, we swing from a polling place election in even year General Elections to mail ballot elections in

every election in between. Voting in a consistent manner is good for election staff, election judges and voters.

While being a conservative by nature, as the chief election official for the County, I have always tried to approach elections from a pragmatic and objective standpoint. My job as clerk is to adhere to Colorado Statute and Secretary of State Rules to provide a fair and transparent process to the citizens of Douglas County while still attempting to provide this process in a fiscally responsible manner.

The new law makes a number of changes and I will try to discuss them in an order that makes sense in the elections process.

**Section One - Residency:**

The residency requirement is to change to 22 days, but refers only to residency in the State of Colorado. Currently, residency has been 30 days in the precinct and this law would eliminate any residency from the precinct.

**Pros** – Previously if an individual moved from one county to another inside of the 30-day requirement, they would need to acquire a ballot and vote in their previous county/precinct. If they contacted the previous county in a timely manner, they could have a ballot mailed to the new address, but the argument is made that when people are moving they are not thinking about how they will vote and as a result, many people were unable to travel to the previous county or, in many cases, did not realize this was the requirement and so were unable to vote.

**Cons** – Residency issues have always discussed how long an individual needed to reside, in order to become familiar with local issues. While there seems nothing magic about 30 days – to move the date to Election Day provides little time to vet the process.

**Possible Solution** – If it is determined that some residency is required to be familiar with local issues, perhaps individuals moving from one county to another inside of the 22 days would receive only a ballot containing State-wide races and issues. Certainly an argument can be made that an individual who has been becoming familiar with the location they are about to move to might be better informed than a person who has lived there for years.

**Side Note** – In any election, we always experience a certain number of under votes. These are questions or candidates where the voter decides not to cast either a yes or no vote. While many explanations are possible, the most reasonable seems to say that the voter was either uncertain or had no opinion and

so "self selected" not to cast a vote in areas where they were uncertain of the candidate or issue.

**Section Two - Registration:**

The registration process is divided into three specific times that allow for different ways to register. Twenty-Two days prior to the election is the last day to accept registrations coming from 3rd parties and National Registration Drives. Eight days prior to the election is the last day individuals can register on-line. After 8 days prior to the election, an individual can register in the clerk's office or at one of the "service centers" run by the county clerk.

The new law would change the status of individuals from "inactive failed to vote," to a status of "active." In addition, the clerk could use the National Change of Address function used by the post office to help determine those voters who have moved both from the County and the State.

What is needed for registration remains the same:

For paper registrations through the mail, an individual needs a wet signature, a local residential address in the county of registration, affirmation that they are a citizen, an affirmation that they will be 18 years or older on the date of the election and either the last four digits of their social security number or a valid Colorado Driver's License number or State Issued I.D number. In addition, I believe they will need to affirm that they have been a resident of the state for 22 days or more. **There is no change in these 3rd party registrations other than they can no longer be submitted after the 22nd day prior to the election.**

For on-line registration – In addition to the above requirements, the individual must have a Colorado Driver's License or State I.D. so that the signature on file with the Department of Revenue is attached electronically to the registration form. As mentioned above, on-line registration ends after the 8th day prior to the election. **It is important to note that the process remains the same as before, other than being available up to the 8th day prior to the election.**

For registration in the clerk's office – the affirmations remain the same. However, an individual can claim they have no social security number or valid State Driver's License or State I.D. In these cases, a special number is generated by the State Registration System (SCORE) and the registration is completed. **It is important to note that the process remains the same as before other than being available up to and including Election Day.**

**Pros** – The argument on "same day" voter registration has been based on possible fraud. This legislation requires the State-run voter registration system (SCORE) to be live on Election Day. This will help detect voters who attempt to cast more than one ballot and prevent fraud. In addition, people tend to procrastinate in many areas and by allowing "same day" registration; last minute voters will not be disenfranchised. Finally, it really does not change the way people register. For those individuals who really know how to "game" the system, what proof is there that they are more likely to attempt to commit fraud on Election Day as opposed to 29 days prior to the election?

**Cons** – Because the clerk's office will be engaged in the voting process and the registration process at the same time, they will be less likely to detect and prevent possible election fraud. The change in election law represents a significant change in how elections are conducted in Colorado. Any time we make significant changes, we experience risk and the training for both staff, election judges and citizens represent a significant effort and is unlikely to look the same in every county.

**Possible Solutions** – This probably represents the single most controversial aspect of the new election law. While I agree that there is nothing magical about the 29-day registration law, two possible solutions might seem reasonable. A more phased-in approach might be appropriate. Should we consider a 14-day registration process in 2014 and then re-evaluate for the 2016 election? Another possible solution would be to require a State Issued Photo I.D. for registration that takes place inside of eight days prior to the election in the clerk's office or service center. Elections are always a combination of both perception and reality and the requirement to use a photo I.D. only for the last 7 days of registration might help to eliminate either the reality or perception of fraud.

**Side Note** – Do we have a form of "same day registration" currently? The answer is "yes" for those who know how to "game" the system. Currently, if a person shows up on Election Day and is not currently on the clerk's registration list, they are allowed to vote on a "Provisional Ballot." If they affirm on the Provisional Ballot form that they believe they registered with a 3rd party registration drive at some point prior to 29 days before the election, we are directed to accept the "Provisional Ballot" and count the vote.

**Section Three - Election Process:**

Starting with the 2014 Election, all ballots would be delivered by mail. Fifteen days prior to the election, service centers would open where individuals could register to

vote, receive a ballot, vote the ballot or do any activity done directly in the clerk's office. Equipment would be provided at every "service center" for handicap accessible voting. A formula based on active and inactive registered voters would be used to determine the number of Service Centers needed by each county.

Starting two weeks prior the election, Service Centers would open based on one Service Center for every 30,000 active/inactive voters. Voting would be open during normal business hours Monday through Saturday of the two weeks prior to the election. In addition, the service centers would be open on the Monday prior to the election and from 7am to 7pm on Election Day.

On Election Day, additional Service Centers would open so that the total number of Service Centers open on Election Day would be equal to one center for every 15,000 active/inactive voters.

Because ballots will be delivered by mail, there is no distinct difference between casting a ballot leading up to Election Day or on Election Day, so the entire concept of early voting disappears.

**Pros** – By delivering the ballot by mail, significant dollars can be saved around traditional polling place costs. Because ALL elections will look primarily the same, voter confusion can be eliminated. Training costs for staff and election judges can also be reduced by maintaining a unified process. In addition, because of "same day" registration and the fact that we have a live SCORE system, the use of provisional ballots will be greatly reduced, also reducing costs and voter confusion.

**Cons** – The concept of "traditional" precinct voting is eliminated. The system most closely resembles that of "vote centers" where the citizen is allowed to vote anywhere. This completely eliminates the "feel" of neighborhood voting. Just because voters are allowed to vote their ballot at a "Service Center," is not the same thing as a polling place election.

**Possible Solution** – I think the solution offered is a good one. It allows for a polling place experience if that is the voter's preference and still helps to control costs. The fact is, as younger generations start to vote, they will demand the ability to vote on iPhones, iPads and other personal communication devices. The idea of being required to vote in a specific location or on a piece of paper will seem antiquated to these voters.

**Side Note** – Currently 78% of Douglas County's active registered voters have signed up to vote through the "Permanent Mail Ballot" process. If you add those individuals who want to vote on a one-time basis by mail we approach 80%. Based

on statistics on the Secretary of State's website for the 2012 General Election, more than 70% of our citizens voted by mail. The reality is, Colorado is a mail ballot state and the majority of our citizens wish to vote by mail.

**Section Four - Summary**

There are still a number of issues discussed in this very lengthy election bill I have not included, but I believe I have hit on the highlights.

As discussed, our current voting process allows for the opportunity to "game" the system. Certainly there have been reports about possible fraud as related to "same day voter registration" in other states and there are success stories as well. At best, we can only say that we are not certain how these changes will affect the level of fraud in Colorado. Regardless of where this new election law leads us, it is important to constantly evaluate our process and look for possible areas of concern.

Please accept my apology for this very long discussion, but I think such significant election legislation deserves careful evaluation. Please feel free to contact me directly with your thoughts or questions.

Respectfully,
Jack Arrowsmith
Douglas County Clerk and Recorder