

Elections

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During the 2013 legislative session, the General Assembly considered a number of measures pertaining to elections, on issues ranging from campaign finance to the initiative and referendum process to voter registration. A summary of the legislation considered by the General Assembly in 2013 pertaining to elections follows.

Conduct and Administration of Elections

House Bill 13-1303 makes numerous changes to the "Uniform Election Code of 1992" affecting the conduct of elections. Following are the major changes made by the bill broken down by subject area.

Residency. Under previous law, an eligible voter was required to reside in the state and precinct in which the person intended to register to vote for 30 days prior to an election. The bill reduces the required period of state residency to 22 days and eliminates the precinct residency requirement. The bill also reduces from 30 days to 22 days the time period after which a person loses state residency status if the person has relocated to another state with the intent to reside there.

Voter registration. Previously, voter registration could occur no later than 29 days before an election. HB 13-1303 allows voters to:

- register by mail or through a voter registration agency, driver's license examination facility, high school, or voter registration drive up to 22 days before an election;
- register online through the Secretary of State's website up to eight days before an election;
- register in person at a county clerk's office at any time when registrations are permitted at the office; and
- register at a voter service center up to and including election day.

The bill conforms change-of-address requirements to these changes in voter registration, with the exception that a change-of-address form is valid if received by a county clerk at least eight days before an election. The bill changes the affirmations that voters must agree to when registering to vote.

Mail ballot elections. Under the bill, all general, primary, odd-year, coordinated, presidential, special legislative, recall, and congressional vacancy elections are to be conducted as mail ballot elections. In these elections, county clerks are required to mail a ballot to all active registered voters. Voters have the option of returning the ballot by mail, dropping the mail ballot off at a voter service and polling center, or casting a ballot in person at the voter service center. Permanent mail-in ballot status is removed from law, as it is no longer required because all active voters receive a mail ballot under the bill. The bill dictates the form in which mail ballots and associated materials appear, requiring them to conform with the form of other ballots used in an election. Mail ballots may be dropped off at a voter service and polling center prior to election day.

Voter service and polling centers. County clerks are required to operate voter service and polling centers (voter centers) in all elections under the bill. Precinct polling places are eliminated. Voter centers must be open for at least 15 days prior to and including election day (Sundays excluded) and must have the ability to:

- register a person to vote;
- allow a voter to cast a ballot, including a provisional ballot;
- accept mail ballots deposited by electors;
- allow a registered voter to update his or her address;
- allow a registered voter to update his or her name, if legally changed;
- allow an unaffiliated voter to affiliate with a political party and cast a ballot in a primary election;
- access the statewide voter registration database (SCORE) through a secure computer connection. The bill creates a waiver process for this provision for certain counties;
- provide mail ballots to requesting voters;
- provide original and replacement ballots; and
- provide access to voters with disabilities.

Voter centers serve all voters in the county regardless of their location in the county. In addition, the bill specifies the number and type of ballot drop-off locations that large counties must offer separately from voter centers. In general elections, HB 13-1303 requires county clerks to establish a minimum number of voter centers in their counties for the early voting period and on election day based on the number of active voters in the county. In elections conducted by a county clerk that are not a general election, counties with more than 25,000 voters must operate voter centers equal to the number of county motor vehicle offices in the county; counties with fewer than 25,000 voters are only required to operate one voter center during these elections. The bill lists a number of factors to be considered by county clerks in siting voter centers, including geography and proximity to population centers.

Inactivity by reason of failure to vote. The bill repeals the category of voter inactivity that is triggered by an elector's failure to vote and makes all such voters active. As a result, such voters will receive mail ballots in future elections.

Voter verification and data sharing. The bill requires the Secretary of State to conduct a monthly search of the National Change of Address Database on all registered voters in the SCORE database, and to transmit the results monthly to county clerks. Previously, the Secretary of State conducted such a search quarterly. The bill specifies the procedures for county clerks to confirm the addresses of voters flagged through the search as possibly having moved. In addition, HB 13-1303 requires the Secretary of State to enter into data-sharing agreements with the Department of Public Health and Environment and the Department of Corrections to cross-check persons registering to vote with death records and felon lists, respectively. State law continues to require such an arrangement between the Secretary of State and the Department of Revenue for cross-checking information administered by the Division of Motor Vehicles. The bill facilitates the use of confirmation cards mailed by county clerks to verify the addresses of voters identified during these cross checks.

Voter communication. The bill permits county clerks, with voter permission, to send certain election-related communications to voters electronically. Ballots and confirmation cards may not be sent electronically.

Election commission. The bill creates the Voter Access and Modernized Elections Commission (commission) to evaluate the implementation of the bill and conduct other evaluations and assessments. Members serve two-year terms. Members serve without compensation, but are entitled to be reimbursed for reasonable expenses. The Secretary of State is required to support the commission in completing its duties. The commission is required to hold its first meeting no later than June 15, 2013, and all meetings are open to the public. The commission consists of the 11 members or their designees, as set forth in the bill. The commission is required to prepare and present the following reports to the State, Veterans, and Military Affairs Committees of the General Assembly:

- by July 15, 2013, an independent needs assessment that examines the current state of voting and registration system technology, including SCORE and the online voter registration system;
- by September 2, 2013, an independent needs assessment that examines the current state of technology pertaining to voting systems, the certification of voting systems, and the replacement of voting systems, including costs and funding sources;
- by January 15, 2014, recommendations based on the first two assessments and an outline of a process for evaluating the use of technology in the 2014 general election; and
- by February 16, 2015, an evaluation of the technology used in the 2014 general election and technical recommendations for the 2016 general election.

The commission sunsets on July 1, 2015.

HB 13-1303 also makes several changes to election-related terminology, and updates election law provisions listing certain personal and family relationships, such as residency requirements, to include partnership in a civil union.

For court challenges after an election where a contestor has established that the number of illegal votes cast in a county or nonpartisan election exceeds the margin of victory, **House Bill 13-1201**, which was postponed indefinitely, would have required the court to declare the election invalid and grant other appropriate relief. For trials where the contestor has

established that the number of illegal votes, if invalidated, places the margin of victory within the margin requiring a recount under state law, the bill would have required the court to order a recount.

Initiative and Referendum

Although it has been a highly considered area of election law in recent years, only one bill addressed the initiative and referendum process in 2013. **House Bill 13-1100**, which was postponed indefinitely, would have required the Title Board, which sets titles for citizen-initiated ballot measures to write ballot titles that, to the extent possible:

- are in plain language;
- have words that are generally understood by the average reader; and
- are clear and coherent.

The bill would have also required measures referred to the ballot by the General Assembly to conform to these standards.

Local Elections

Under previous law, professional firefighters could only engage in collective bargaining if the laws of their political subdivision had a mechanism allowing for it. The "Colorado Firefighter Safety Act," **Senate Bill 13-025**, grants professional firefighters the ability to collectively bargain upon approval by the voters of a political subdivision. The bill applies to public employers, including municipalities, counties, and special districts, but not to volunteer firefighters. Firefighters may gain access to the ballot for their question by submitting a petition signed by five percent of the voters from the previous election in the political subdivision. If the measure is approved, firefighters have the right to form or join a collective bargaining unit and to elect their representatives. Public employers are obligated to meet and confer, when requested by the firefighters or their organization, to discuss issues related to employment policies, safety, and equipment. If a public employer and firefighters are unable to reach an agreement concerning the terms of an employment contract, the parties must hire a fact finder. If either party rejects the fact finder's recommendations, unresolved issues will be decided by a special election within the political subdivision. The bill prohibits firefighters from striking, and sets out procedures and timing for negotiating and resolving conflicts.

In counties where the voters have elected to increase the membership of the board of county commissioners from three to five, or to reduce the membership from five to three, **Senate Bill 13-243** changes the signature threshold for designating a candidate in an election for county commissioner for the four years following the change in membership numbers. The bill specifies the signature threshold for both major-party candidates and those not affiliating with a major party.

Two bills concerning local elections were considered by the General Assembly but not approved. **Senate Bill 13-065** would have allowed approval voting for nonpartisan elections in local jurisdictions, including school districts and special districts. Approval voting allows a voter to cast a vote for as many of the candidates running for an office as the elector chooses. The winner of each office is the candidate who receives the most votes or, for elections in which multiple candidates fill open seats, the winners are those candidates, in a number equal to the number of seats being filled, receiving the greatest number of votes. **Senate Bill 13-164** would have repealed

the requirement that candidates for school board membership be registered voters of the school district in which they are running for at least 12 months prior to the election. Both bills were postponed indefinitely.

Primary Elections

In 2013, two bills, both postponed indefinitely, addressed uncontested primary elections. Under current law, a primary election can only be cancelled if no major party has contested races. **House Bill 13-1067** would have required county clerk and recorders to cancel a major party's primary election if that party has no contested races on the primary election ballot at the close of business on the 60th day before the primary election date. The cancellation was to be independent of the number of contested races in the primary election of any other major political party. Under the bill, the uncontested candidate would have been deemed the primary winner. **House Bill 13-1207** would have required a major political party to pay the costs associated with conducting the party's primary elections if there were no contested races for the political party and the party chose to proceed with the primary election. In addition, the bill would have eliminated the ability of election officials to cancel a primary election in such circumstances. A party's costs would have been based on the proportionate share of total expenses incurred by the county to prepare for and conduct the primary election. Under current law, costs for conducting primary elections are borne by a county or the state, as applicable.

Voter Registration

In addition to the voter registration changes made by HB 13-1303, the General Assembly considered four bills during the 2013 legislative session affecting the voter registration process. **House Bill 13-1038** requires a facility administrator for a youth corrections facility administered by the Division of Youth Corrections within the Department of Human Services to assist eligible individuals confined to the facility in navigating the voting process. Specifically, the bill requires a facility administrator to facilitate voter registration and voting by, and provide information on voter registration and voting rights to, those who will be 18 or older at the time of the next election. The bill specifies that verification that a voter is committed to a juvenile facility and in the custody of the Division of Youth Corrections is acceptable identification for voting purposes. The bill requires the Secretary of State to inform county clerks and post information on the websites of the Departments of State and Human Services on what type of verification is acceptable. Additional duties prescribed by the bill for facility administrators include:

- providing information on how eligible individuals confined to a youth corrections facility may cast a mail or mail-in ballot;
- distributing certain voter information materials to confined individuals; and
- ensuring that any mail or mail-in ballots cast by eligible individuals are delivered in a timely manner to the designated election official.

Lastly, the bill exempts facility administrators from any restrictions on the number of mail or mail-in ballots that an individual may deliver in person to the designated election official.

House Bill 13-1135 allows an otherwise qualified person who has reached 16 years of age, but who will not be 18 years of age by the date of the next election, to preregister to vote. Under the bill, preregistered voters are automatically registered upon turning 18 years of age. A person covered by the bill may preregister through any available means, and may update his or her voter registration information using the Secretary of State's website. Voter information provided by a preregistrant who will not be 18 years of age by the date of the next election is treated as confidential under the same provision of the open records law that provides confidentiality for

persons under danger of criminal harassment, except that such confidentiality for preregistrants will happen automatically. The information is no longer confidential when the preregistrant turns 18. Under the bill, a person registering to vote must affirm that he or she recognizes that 18 is the minimum age for voting.

House Bill 13-1147 requires institutions of higher education to provide students who are electronically registering for classes the opportunity to register to vote by providing them with a link to the online voter registration website operated by the Secretary of State. Institutions of higher education that do not use electronic course registration are required by the bill to provide information on voter registration to students, including prominently posting information about voter registration in the registrar's office.

House Bill 13-1050, which was postponed indefinitely, would have required the Secretary of State to coordinate the statewide voter registration database (SCORE) with citizenship records maintained by federal and state agencies, including the U.S. Department of Homeland Security. Upon learning that a particular person registered to vote is not a United States citizen, the Secretary of State, after conducting an administrative hearing, would have been required to electronically cancel that person's voter registration record.