

Report to the Colorado General Assembly:

REVISION OF MUNICIPAL AND OTHER ELECTION LAWS



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 97

DECEMBER 1964

LEGISLATIVE COUNCIL
OF THE
COLORADO GENERAL ASSEMBLY

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The Legislative Council, which is composed of five Senators, six Representatives, and the presiding officers of the two houses, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

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REVISION OF
MUNICIPAL AND OTHER
ELECTION LAWS

Legislative Council
Report To The
Colorado General Assembly

Research Publication No. 97
December, 1964

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Rep. John W. Nichols
Rep. Clarence H. Quinlan

November 24, 1964

To Members of the Forty-fifth Colorado General Assembly:

As directed by House Joint Resolution No. 25, 1963 session, the Legislative Council submits the accompanying report prepared by the Committee on Local Election Laws.

This report was reviewed by the Legislative Council at its meeting on November 23. At that time the report was accepted for transmission to the Forty-fifth General Assembly.

Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

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November 18, 1964

Representative C. P. (Doc) Lamb
Chairman
Colorado Legislative Council
Room 341, State Capitol
Denver, Colorado

Dear Mr. Chairman:

Your Committee on Local Election Laws submits herewith its final report and recommendations on municipal and other election laws. The committee has recommended two bills to revise the municipal election laws and also suggest changes in the "Colorado Election Code of 1963," the new resident voting law, and the laws on petitions.

The committee's study assignments have been completed. Bills concerning school election laws and election law changes resulting from legislative districting were adopted by the General Assembly in 1964. Municipal election laws are covered by this report, and special district laws will probably be completely revised pursuant to forthcoming recommendations of the Governor's Local Affairs Study Commission. Also, the simplified manual of election procedures was completed on schedule and submitted to the Secretary of State in late May.

Respectfully submitted,

/s/ Representative Clarence Quinlan
Chairman, Committee on
Local Election Laws

CQ/mp

FOREWORD

House Joint Resolution No. 25, 1963 session, directed the Legislative Council to make a study of the various election laws of Colorado relating to school district, special district, and municipal elections, with a view to improving and revising said laws. The study was also to include a review of problems arising under the primary and general election laws resulting from legislative districting.

To carry out this directive, the Legislative Council appointed the following committee: Representative Clarence Quinlan, chairman; Representative Vincent Massari, vice chairman; Senators Robert Allen and A. Woody Hewett; and Representatives Jean Bain, Ray Black, James Braden, Seiji Horiuchi, Joseph Schieffelin, Ruth Stockton, and C. P. (Doc) Lamb, chairman of the Legislative Council.

This committee was given an additional assignment under House Joint Resolution No. 1030, 1964 regular session: to prepare a simplified manual of election procedures for submission to the Secretary of State by June 1, 1964.

In 1963 the committee concentrated on the revision of school election laws and on changes needed due to legislative districting. Bills on these subjects were adopted by the General Assembly in 1964.

The first project following the 1964 legislative session was the preparation of the election procedures manual. After this was completed and submitted to the Secretary of State the committee turned to the revision of municipal election laws. Finally, the committee reviewed suggestions for changes in the general election laws, the new resident voting law, and laws on petitions. The committee did not undertake a revision of special district election laws because the Governor's Local Affairs Study Commission is planning a complete revision of all laws pertaining to special districts.

Several persons have been of assistance to the committee in its studies this year. Representatives of the county clerks, the municipal clerks, the Denver Election Commission, the Colorado Municipal League, and both political parties have reviewed proposed drafts and ordered helpful suggestions. Mr. James Wilson of the Legislative Reference Office and Miss Janet Wilson of the Legislative Council staff have assisted the committee in the drafting of bills and the preparation of the final report.

November 24, 1964

Lyle C. Kyle
Director

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REPORT OF THE COMMITTEE ON LOCAL ELECTION LAWS

Simplified Manual of Election Procedures

The first project undertaken by the Committee on Local Election Laws in 1964 was the preparation of a simplified manual of primary and general election procedures. Following the directive in House Joint Resolution No. 1030 (1964), the committee submitted the completed draft to the Secretary of State in late May. Prior to that time it was reviewed by several county clerks, representatives of both political parties, and the Legislative Reference Office, as well as by committee members. The Secretary of State printed and distributed the manual in time for use by election judges and clerks in the primary and general elections.

Municipal Election Laws

The second project was the revision of Colorado's municipal election laws. Two bills were prepared to accomplish this purpose. Bill A replaces article 22 of chapter 49, C.R.S. 1963 -- the "Colorado Municipal Election Law." Bill B makes minor changes in the miscellaneous election laws appearing in chapter 139 (Towns and Cities) to be consistent with the revised Municipal Election Code. These bills have been reviewed by the Colorado Municipal League, the Legislative Reference Office, several municipal clerks, and the members of the committee.

Each of the proposed bills is accompanied by comments which explain the sources and effects of the various provisions. The major changes from present law are summarized below.

Revision of Municipal Election Code -- Bill A

Unlike the primary and general election laws which had never undergone a comprehensive revision until the Colorado Election Code of 1963, the municipal election laws have been revised fairly recently. Article 22 of chapter 49, C.R.S. 1963, the "Colorado Municipal Election Law," was enacted in 1955 under the sponsorship of the Colorado Municipal League. Prior to that time the municipal election laws were scattered throughout the general election laws and the laws on municipalities. Enactment of the 1955 law was a real step forward in the development of a uniform, workable, and up-to-date election law for Colorado municipalities. Bill A generally follows this law, bringing it into conformity with the Colorado Election Code of 1963 wherever possible and desirable.

Changes in Registration for Municipal Elections. The principal change proposed by Bill A concerns registration for municipal elections. The present law requires separate registration books for municipal elections and separate registration for all municipal electors unless the governing body chooses to accept names from the county registration books. That is, even though a person is registered with the county clerk for general elections, he cannot vote in municipal elections unless he registers again with the municipal clerk. The county regis-

tration books can be utilized for municipal election purposes only if the governing body of the municipality votes to do so. The pertinent sections are 49-22-17 and 49-22-19, C.R.S. 1963:

49-22-17. Registration in municipalities. The registration of electors in municipalities shall be made in the office of the clerk, by the clerk, except as follows:

(1) Provided the governing body shall elect to use the procedure set out in section 49-22-19, any qualified elector of the municipality whose name is on the registration list as prepared and purged by the county clerk in accordance with the election laws of the state of Colorado after the last preceding general state election and who still resides in the same precinct designated in his said registration, shall be deemed properly registered for all succeeding municipal elections, until and including the next regular municipal election.

(2) Absentee registration may be made as provided in section 49-22-20.

49-22-19. County registration list. At any time following each general state election and after the county clerk has purged the county registration lists, the clerk may secure from such lists the names of the municipal electors. Upon securing such names, the clerk shall forthwith register such electors in the registration book for the precinct wherein such voters reside in the same manner as electors appearing in person are registered, and shall write or stamp in the space for the elector's signature the words, "registered from county registration list." The municipal registration lists shall be filed in the office of the clerk and be subject to examination by any qualified elector.

In 1959 these two sections were declared unconstitutional by the district court in Arapahoe County. The case concerned the city of Aurora, which at that time was not a home rule city. The court held that the municipality had to permit persons to vote if they were registered on the county registration books; this could not be a matter of choice for the governing body. If a person was registered with the county clerk, he could not be denied the right to vote in the municipal election solely because he was not registered separately with the municipal clerk. Separate municipal registration may be used in addition to county registration, the court said, but it must not be the sole method.

The court stated that the two sections are unconstitutional because "they are violative of and contravene various provisions of the Constitution of Colorado, specifically Article 7 Section 1 with respect to the qualifications of electors for the reason that the execution of these sections involves the addition of a qualification of an elector which is not contemplated by said Article 7 Section 1."

Also, the sections "are violative of and contravene Section 11 of Article 7 of the Constitution of the State of Colorado in that these sections do not secure the purity of elections or guard against the abuse of the elective franchise but in fact lead to and promote an abuse of the elective franchise. The court finds these sections are unconstitutional because they are violative of and contravene the constitutional provision for equal protection of the law, and for the further reason that said sections of Chapter 49 constitute special legislation, and further because said sections of Chapter 49 purport to delegate legislative power to the governing body - which in this case would be the City Council under Sections 17 and 19 - or an unlawful delegation of legislative power to the city clerks of the various cities affected under Section 19."

This decision has caused concern among municipal officials and it precipitated the major change proposed in Bill A. Under the proposed change there would be no separate municipal registration. County registration would serve as municipal registration. Anyone properly registered with the county clerk would have fulfilled the registration requirements for municipal elections. Purging would be based on non-voting in general, not municipal, elections.

The municipal clerk would be a deputy county clerk for purposes of registration. All new registrations taken in his office would be delivered to the office of the county clerk once each month. Persons registering with the municipal clerk would be registering for primary, general, and school elections as well as for municipal elections. This means that there would be several additional locations for registration -- one in each municipality.

Municipal governing bodies would work with county officials to try to establish municipal precinct boundaries which coincide with the county's precinct boundaries. Municipalities could use the actual county registration books for municipal elections wherever precinct boundaries coincide. Where the precinct boundaries of the municipality differ from those of the county, registration lists would be prepared by the county clerk for use in the municipal election.

The committee believes that the proposed system of a single registration for all types of elections, with the municipal clerk serving as a deputy county clerk for registration purposes, will be another step toward improving election procedures in Colorado.

Other Changes. Apart from the change in municipal registration procedures, Bill A is aimed primarily at achieving conformity with the provisions of the Colorado Election Code of 1963. Numerous minor changes have been made with that end in mind. The committee feels that substantial uniformity in election procedures for all types of elections is desirable from the standpoint of the voter as well as for efficient administration.

A few of the most notable changes are enumerated here; other changes can be found by reading the bill and accompanying comments.

(1) The Secretary of State would be required to prepare a simplified manual of municipal election procedures similar to the manual prepared this year for primary and general elections. Each judge of election would receive a copy of this manual.

(2) If voting machines are to be used in a special municipal election, it could not be scheduled for any time between July and January of a general election year unless held in conjunction with the primary or general election. This is to avoid conflicts in the use of the machines.

(3) The registration deadline for municipal elections would be changed from Tuesday, one week before the election, to the twentieth day before the election. This allows more time to prepare the registration lists for the election. The general election law provides for a 20-day deadline.

(4) The requirement for residence in the municipal election precinct would be changed from 15 to 20 days to comply with the registration deadline. This provision differs from the general election law, which requires 15-day residence in the general election precinct.

(5) The municipal governing body would be specifically authorized to require each taxpaying elector to sign an oath as to his qualifications. This provision is designed to aid in the administration of elections at which bond issues or other questions are submitted to taxpaying electors only.

(6) Twelve months' residence in the municipality or ward would be required for eligibility to elective municipal office. At the present time, residence at the time of election is sufficient.

(7) There would be no requirement for an "X" following the name of a write-in candidate. The general election law is not specifically that no "X" is required.

(8) Voters would be required to fill out signature cards at the polls. The procedure would be identical to general election procedures for signature cards.

(9) Absentee voting machines would be specifically authorized for municipal elections. These could be made available in the office of the municipal clerk prior to election day. A similar provision is contained in the general election law.

(10) Challenges would be made by written oath, as in the general election law. Challenges and oaths taken in reply to challenges would be delivered to the district attorney for investigation and appropriate action.

Applicability. The proposed "Colorado Municipal Election Code of 1965" would be used for regular and special municipal elections in all towns and cities which do not have home rule. Section 6 of Article XX, Colorado Constitution, grants to home rule cities the power to regulate their own municipal elections. In practice, however, many home rule cities follow the procedures set forth in the statutes, and the Code has been written with this in mind.

Committee Changes in Bill A. The committee recommends two changes in Bill A which were adopted following the printing of the text. These changes will be included in the bill when it is prepared for introduction.

(1) Maximum compensation for delivery of election materials would be raised. On page 15, section 38, line 6, the amount would be changed from "two dollars" to "not to exceed four dollars".

(2) Voting assistance could be provided for illiterates. On page 26, section 67(1), line 4, the words "or inability to read or write" would be added following "physical disability".

Revision of Miscellaneous Municipal Election Laws -- Bill B

The present Municipal Election Law contains a section (49-22-160) entitled "Limitations and Exclusions." It lists which elections are to be conducted wholly or in part under the provisions of article 22 of chapter 49, and which elections are not affected by the article. This section has been a source of some confusion, and Bill B is an attempt to eliminate this confusion. The bill makes appropriate amendments to each individual section which concerns municipal elections to be conducted under the proposed Code.

The elections covered by Bill B are:

- (1) Election on question of incorporating;
- (2) First election of officers following incorporation;
- (3) Regular election of officers in first class cities;
- (4) Regular election of officers in second class cities;
- (5) Election on question of adopting council-manager form of government;
- (6) Regular election of officers under council-manager form;
- (7) Election on question of abandoning council-manager form;
- (8) Regular election of officers in towns;
- (9) Election in special charter city or town on question of organizing under the general law;
- (10) First election of officers following vote by special charter city or town to organize under the general law;
- (11) Election on question of consolidating contiguous municipalities;
- (12) First election of officers following consolidation of contiguous municipalities;
- (13) Election on question of annexation of one municipality to a contiguous municipality;

- (14) Election on question of dissolution of a statutory town or city and annexation to special charter city;
- (15) Election on question of annexing territory to a municipality;
- (16) Special election to fill vacancy in office of mayor in cities;
- (17) Election on question of incurring indebtedness in municipalities;
- (18) Election on question of establishing public hospitals, medical dispensaries, and other suitable places of relief in municipalities;
- (19) Election on question of acquiring waterworks, gasworks, or electric works in municipalities;
- (20) Election on question of sale and terms of sale of waterworks, ditches, gasworks, electric light works or other public utilities, public buildings, or real estate used or held or park or other governmental purposes in municipalities;
- (21) Election on question of appropriating money for construction and repair of any highway leading to city or town;
- (22) Election on question of acquiring public utilities in municipality;
- (23) Election on question of issuing funding bonds to fund floating indebtedness in municipality;
- (24) Election on question of issuing refunding bonds where the net interest cost or the net effective interest rate is increased;
- (25) Election on question of issuing bonds to pay any special assessment bonds or obligations which municipality has issued or may issue;
- (26) Election on question of adopting civil service for fire departments;
- (27) Election on question of having a board of trustees to manage waterworks of all or part of municipality;
- (28) First election of trustees following vote to have board of trustees to manage waterworks;
- (29) Regular election of trustees to manage waterworks;
- (30) Election on question of acquiring land for parks, boulevards, parkways, avenues, and roads in towns, and election on incurring indebtedness for such purposes; and
- (31) Election on question of acquiring land for parks, boulevards, parkways, avenues, driveways, and roadways in cities, and election on incurring indebtedness for such purposes.

Throughout the laws covering these miscellaneous elections, the committee has added references to the proposed "Colorado Municipal Election Code of 1965." In most cases the detailed and often conflicting election procedures have been eliminated and replaced with a reference to the Code. This is in keeping with the committee's belief that uniformity in election procedures is desirable.

Bill B amends the appropriate sections to make the time limits, residence requirements, voting requirements, and similar provisions consistent with proposed Bill A. Specific provision is made for establishment of precincts and registration procedures for incorporation elections and annexation elections, both of which are conducted by commissioners appointed by the court rather than by a municipal clerk. In making these and other changes in Bill B the committee has attempted to clarify the statutes and improve election procedures with a minimum of substantive change.

Special District Election Laws

The committee has not taken up the revision of special district election laws because the Governor's Local Affairs Commission is planning a complete revision of all laws pertaining to special districts. If these plans are not realized, the committee recommends the revision of the special district election laws with particular attention to the possibility of a single law which would apply to all types of special district elections.

Registration Requirement for Persons Signing Petitions

The committee recommends a bill to require that wherever the signer of a petition must be a qualified elector or a qualified tax-paying elector he shall also be registered. This would apply to petitions of all types, including but not limited to petitions to nominate candidates for office, petitions to call for submission of various questions, petitions for initiative, referendum, and recall, and petitions for annexation. Registration would not be required in cases where signers need not be qualified electors who meet the residence requirement. The proposal would apply to petitions covered by the general, municipal, school, and special district election laws. This bill is being prepared but is not included in this report.

Suggestions for Changes in General Election Laws

The Attorney General's office submitted the following suggestions for changes in the general and primary election laws to correct problems that arose in the 1964 elections. The committee reviewed these suggestions and recommends that consideration be given them by the General Assembly. Bills to make these changes are being prepared at the request of the committee but are not included herein.

Adoption of some of these changes for the general election law might suggest identical changes in Bill A on municipal elections, in keeping with the principle of uniformity.

Two references are given for each proposed change. The first is to the "Colorado Election Code of 1963" as printed in pamphlet form by the Secretary of State and the second is to C.R.S. 1963.

1. Definition of "precinct caucus", Section 1 (15) or 49-1-4 (15). Change the second sentence to provide for "nominating" rather than "designating" candidates for precinct committeeman and committeewoman.

2. Computation of time, Section 3 or 49-1-6. Change the last sentence to include Saturdays, as well as Sundays and legal holidays. Saturdays would be included in the computation, but if the time for any act to be done falls on a Saturday, it would be done on the next business day. This would avoid having deadlines (for filing certificates of designations, petitions, etc.) which fall on a Saturday when the clerk's office or the office of the Secretary of State is closed.

3. Precinct residence requirement, Section 17 (1)(b) or 49-3-1 (1)(b) and other appropriate sections. Change the precinct residence requirement for registration and voting from "fifteen" to "twenty" days, to comply with the 20-day registration deadline.

4. Registration locations, Section 23 or 49-4-2. Authorize the county clerk to register electors either at his office or at any office regularly maintained by the county clerk and staffed by his regular employees.

5. Day for precinct registration, Sections 24 and 30 or 49-4-3 and 49-4-9. Change the day for precinct registration from the 25th day preceding the election (a Friday) to the 28th day preceding (a Tuesday). This would avoid conflicts with the Jewish Sabbath on Friday and would be consistent with the usual Tuesday for election matters.

6. Option on precinct registration, Section 24 (1)(c) or 49-4-3 (1)(d). Provide that where precincts outside the county seat are combined for purposes of precinct registration, there need be no precinct registration within the boundaries of the county seat.

7. Delivery of supplies for precinct registration, Section 27 or 49-4-6. Provide that the county clerk shall deliver the supplies along with the registration book to the minority member of the registration committee.

8. Tie votes on designation of candidates by assembly, Section 50 or 49-6-4. Provide that the order of certification of designation in cases of tie votes shall be determined by casting lots.

9. Tie votes on delegates to party assemblies, Section 51 or 49-6-5. Provide that tie votes for last place in the election of delegates to county assemblies at the precinct caucuses shall be determined by casting lots.

10. Tie votes on precinct committeeman and committeewoman, Section 52 or 49-6-6. Provide that tie votes in the highest vote for the offices of precinct committeeman and committeewoman shall be determined by casting lots.

11. Disputes regarding nomination of precinct committeeman and committeewoman, Section 52 or 49-6-6. Place jurisdiction of disputes regarding the nomination of the precinct committeeman and committeewoman under the central committee rather than the credentials committee of the assembly.

12. Twelve months' party affiliation for precinct committeeman and committeewoman, Section 52 or 49-6-6. Add specific requirement in this section for twelve months' party affiliation for any candidate for precinct committeeman or committeewoman nominated at the precinct caucus.

13. Number of signatures for designation of party candidates by petition, Section 53 (2)(a) and (b) or 49-6-7 (2)(a) and (b). State more clearly that the requirement is for either the specified number of signatures or ten per cent of the gubernatorial votes cast in the political subdivision or district at the last preceding gubernatorial election by that political party, whichever is less.

14. Order of names on primary ballot in case of tie votes on designation, Section 55 or 49-6-9. Provide that the order of names on the primary ballot in case of tie votes on designations will be as determined by lot in accordance with Section 50 (or 49-6-4).

15. Write-in votes, Sections 63(2)(a), 67(5), 107(7), 120(1), 128, 169(4), and 171 or 49-8-2(2)(b), 49-8-6(5), 49-11-7(7), 49-12-6(1), 49-12-14, 49-15-10(4), and 49-15-12. Provide that no "X" is required after the name of a candidate written in.

16. Defeated candidates, Section 71 or 49-8-10. Clarify provision on ineligibility of a person defeated at a primary by changing from "eligible as a candidate for" to "eligible for election to".

17. Vacancies in nomination, Section 80(2) or 49-6-11(2). Provide that any vacancy in a party nomination occurring after the primary may be filled by the central committee -- not just vacancies caused by death or withdrawal.

18. Objections to nominations, Section 81 or 49-6-12. Extend this section to apply to party designations as well as to nominations. Also delete the reference to "ministerial" officers and specify that the deadline for curing defects on nominations or designations shall be not later than forty-five days before the election.

19. Appointment of election judges, Sections 82, 87, and 88 or 49-9-1, 49-9-6, and 49-9-7. Change the deadline for appointment of election judges from the first Tuesday in June to 30 days preceding the precinct registration day before the primary election. Also change the deadline for the county chairman's recommendations to 60 days preceding such precinct registration day, and provide that certificates of appointment shall be issued "as soon as possible" after the appointments are made.

20. Vacancies in judges or clerks of election, Section 90(1) or 49-9-9(1). Provide that the county clerk may appoint from the list submitted by the county chairman rather than having to first contact the county chairman for new names.

21. Polling places, Section 101 or 49-11-1. Amend to permit designation of a polling place in an adjacent precinct. Some precincts do not have appropriate facilities for a polling place inside the boundaries.

22. Delivery of election supplies, Section 105(3)(a) or 49-11-5(3)(a) and other appropriate sections. Authorize county clerk to deliver election supplies with the registration book to the minority judge of election.

23. Assistance to voter, Section 121 or 49-12-7. Authorize voting assistance for illiterates as well as for persons who are blind or otherwise physically disabled. Also remove requirement that the person giving assistance must be a resident of the precinct.

24. Substitute watchers, Section 123 or 49-12-9 and other appropriate sections. Authorize substitute watchers to be certified.

25. Challenge procedures, Section 136 or 49-13-4. Require a signature of the challenged voter answering the questions put to him and provide for the indication on the challenge whether the challenge was withdrawn and whether the voter left the polls without answering the questions or taking the oath. Also authorize challenge questions in addition to those stated.

26. Refusal to sign after answering questions, Section 138 or 49-13-6. Provide that any challenged voter who refuses to sign after answering the challenge questions shall be refused a ballot.

27. Delivery of absentee ballot, Section 141(1) or 49-14-3. Amend to provide that delivery of absentee ballots must be either in the clerk's office or by mail.

28. Voting machines sealed after primary, Section 170(2) or 49-15-11(2). Clarify that an election contest after a primary is pursuant to Section 199 (or 49-17-15).

29. Canvassing procedures, Section 173 or 49-16-2 and other appropriate sections. Add specific directions on canvassing procedures, requiring the canvassers to check the accuracy of the tally sheets.

30. Recount for county and precinct officers, Section 175(1) or 49-16-4(1). Provide that recount of votes for county and precinct officers shall be held "no later than" rather than "on" the twentieth day after the election (the tenth day after a primary).

31. Neglect of duty and wrongful acts; controversies, Sections 203 and 204 or 49-18-4 and 49-18-5. Clarify procedures under these sections and when each section should apply. Provide in both sections for speedy review by the supreme court upon application, eliminating the requirement for writ of error procedures.

32. Vacancies in general assembly, Section 207 or 49-19-3. Provide that the vacancy committee for the general assembly shall be the central committee.

Suggestion for Change in New Resident Voting

The committee suggests that Article 24 of Chapter 49, C.R.S. 1963, be amended to provide that new residents voting for president and vice president can vote in the office of the county clerk at any time up to 7:00 p.m. on election day. The present law provides for a cut-off on the Friday before the election.

Suggestion for Change in Initiative and Referendum Petitions

The committee suggests an amendment to section 70-1-6, C.R.S. 1963, to delete reference to the requirement for residence in the municipality for 30 days and to change the precinct residence requirement from 15 to 20 days. These changes would bring this section into conformity with the requirements in the "Colorado Election Code of 1963".

IXI

BILL A -- REVISION OF MUNICIPAL ELECTION CODE

A BILL FOR AN ACT

CONCERNING MUNICIPAL ELECTIONS.

Be It Enacted by the General Assembly of the State of Colorado:

DEFINITIONS AND GENERAL PROVISIONS

SECTION 1. Short title. This act may be known and cited as the "Colorado Municipal Election Code of 1965".

SECTION 2. Definitions. As used in this act:

- (1) "Municipality" means any city and county, city or incorporated town.
- (2) "Governing body" means the city council of any city and county or city or the board of trustees of any incorporated town.
- (3) "Clerk" means the city clerk in any city and the town clerk in any incorporated town.
- (4) "Regular election" means the municipal election held in incorporated towns on the first Tuesday of April in each even-numbered year, the municipal election held in cities of the second class on the first Tuesday of November in each odd-numbered year, and the municipal election held in cities of the first class on the first Tuesday of April in each odd-numbered year.
- (5) "Special election" means any municipal election called by the governing body to be held at a time other than the regular municipal election for the submission of public questions, questions concerning contracting or refunding bonded indebtedness, or the granting or refusal of public franchises.

COMMENTS

Based on 49-22-1.

This section is based in part on 49-22-2, and on definitions in Colorado Election Code of 1963.

Based on 49-22-2(1).

Based on 49-22-2(2). See section 6 herein on election commission.

Based on part of 49-22-2(3). See section 6 herein concerning election commission.

Based on 49-22-2(6). Home rule cities may have different election dates set by charter.

Based on part of 49-22-30. Section 49-22-115 (concerning special town elections where officers have not been elected at the time provided by law) has not been included. See also section 9 herein.

TEXT

(6) "Elector" or "qualified elector" means any person who is legally qualified to register to vote under the requirements of this act.

(7) "Registered elector" means an elector who has complied with the registration provisions of this act.

(8)(a) "Taxpaying elector" or "qualified taxpaying elector" means any person who is at least twenty-one years of age, a citizen of the United States, and who has resided in the state for one year, in the county for ninety days, in the municipality for thirty days and in the municipal election precinct for twenty days immediately preceding the election at which he offers to vote, and who, during the twelve months next preceding the said election, has paid an ad valorem tax upon real or personal property situated within the municipality and owned by said person; and "registered taxpaying elector" means a taxpaying elector who has complied with the registration provisions of this act.

(b) "Ad valorem tax" means only the general property tax, levied annually on real or personal property listed with the county assessor; it shall not include any one or more of the following taxes: income tax, sales tax, use tax, excise tax, or specific ownership tax on a motor vehicle or trailer. The generality of this definition shall not be restricted by the listing set forth herein.

(9) "Ward" means a district, the boundaries of which have been established pursuant to section 139-1-5 or 139-14-4, C.R.S. 1963, from which a member or members of the governing body shall be elected; and includes a councilman's district.

(10) "Population" means population as determined by the latest federal decennial census.

(11) "Election official" means any city clerk, town clerk, election commission, judge of election, clerk of election, or municipal governing body engaged in the performance of election duties as required by this act.

COMMENTS

Based on 49-22-2(9).

New definition.

Based on 49-22-2(8).

The Colorado Constitution, Article XI, Section 8, says: "...such qualified electors thereof as shall in the year next preceding have paid a property tax therein..."

New definition similar to the definition in the new school bond law (Chapter 70, Session Laws of 1964).

New definition.

Based on 49-22-2(5).

New definition.

TEXT

COMMENTS

(12) "Watcher" means a person whose name has been submitted to the clerk and then certified by the clerk to the appropriate election judges to serve at the polling place with the right to remain inside the polling place from at least fifteen minutes prior to the opening of the polls until after the completion of the count of votes cast at the election and the certification of the count by the judges. Each watcher shall have the right to maintain a list of voters as the names are announced by the judges and to witness each step in the conduct of the election.

New definition. See also section 61 herein on watchers.

(13) "Registration sheet" means the record on which is entered the official registration and identification of an individual elector and a list of the elections at which he has voted since the date of registration.

New definition.

(14) "Registration book" means all of the registration sheets for each general election precinct arranged alphabetically according to surnames and bound together in book form.

New definition.

(15) "Registration list" means the list of registered electors of each municipal election precinct prepared by the county clerk from the county registration books in accordance with section 17 of this act.

New definition.

(16) "Poll book" means the list of voters to whom ballots are delivered, or who are permitted to enter a voting machine booth for the purpose of casting their votes at a municipal election. Names shall be entered in the poll book in the order in which the ballots are delivered at the polls or in the order in which voters are permitted to enter a voting machine booth for the purpose of casting their votes.

New definition.

(17) "Voting machine" means any device fulfilling the requirements set forth in article 15 of chapter 49, C.R.S. 1963, regarding its use, construction, procurement, and trial.

Based on 49-22-2(4).

SECTION 3. Male includes female. All reference to the male elector shall include the female elector and the masculine pronoun shall also include the feminine.

Based on 49-22-2(7).

TEXT

SECTION 4. Computation of time. Calendar days shall be used in all computations of time made under the provisions of this act. In computing time for any act to be done before any municipal election the first day shall be included and the last, or election day, shall be excluded. Sundays and legal holidays shall be included, but if the time for any act to be done shall fall on Sunday or a legal holiday, such act shall be done upon the day following such Sunday or legal holiday.

SECTION 5. Powers of clerk and deputy. (1) Except where otherwise provided in this act, the clerk shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this act.

(2) All powers and authority granted to the clerk by this act may be exercised by a deputy clerk in the absence of the clerk, or in the event the clerk for any reason is unable to perform his duties.

SECTION 6. Election commission. The election commission in municipalities having such commission shall have all the powers and jurisdiction and perform all the duties provided by this act in respect to municipal clerks and governing bodies; provided, that the election commission shall not have the authority to call a special municipal election.

SECTION 7. Copies of election laws and manual provided. At least thirty days before any regular municipal election the secretary of state shall prepare and transmit a sufficient number of copies of the municipal election laws of the state and of a simplified manual of election procedures to the clerk of each municipality, to be distributed to the judges of election in each municipal election precinct. Each set of judges shall receive at least one copy of the municipal election laws and each judge shall receive at least one copy of the simplified manual.

SECTION 8. Forms prescribed. Except as otherwise provided by this act, the secretary of state shall prescribe the forms required by this act, which shall be substantially followed by clerks, judges of election, and other election officials.

COMMENTS

Based on 49-22-4.

New provision.

Based on part of 49-22-2(3). Also covers 49-22-96.

Based in part on 49-22-2(3).

Based on part of 49-22-27.

Adds provision requiring secretary of state to prepare a simplified manual of municipal election procedures similar to the manual for general elections.

Based on 49-22-27.

TEXT

SECTION 9. Special elections. Special elections shall be held on any Tuesday designated by the governing body, except within the ninety days next preceding a regular election; provided, that where voting machines are used, no special election shall be held within the period of time beginning on the sixtieth day preceding a primary election and ending on the sixtieth day after a general election unless such special election shall be held in conjunction with and on the day of a primary or general election. No special election shall be called within thirty days before the date thereof. Special elections shall be conducted as nearly as practicable in the same manner as regular elections.

(Omitted section numbers have been reserved for expansion.)

QUALIFICATIONS AND REGISTRATION OF ELECTORS

SECTION 13. Qualifications of municipal electors. (1)(a) Every person who has attained the age of twenty-one years, possessing the following qualifications, shall be entitled to register to vote at all municipal elections:

- (b) He shall be a citizen of the United States.
- (c) He shall have resided in this state for one year, in the county for ninety days, in the municipality for thirty days, and in the municipal election precinct for twenty days immediately preceding the election at which he offers to vote. An otherwise qualified and registered elector who moves from the municipal election precinct where registered to another precinct within the same municipality within twenty days prior to any regular or special municipal election shall be permitted to cast his ballot for such election at the polling place in the precinct where registered.

(2)(a) No person under sentence to or confined in any public prison shall be entitled to register or to vote at any regular or special municipal election. Every person who was a qualified elector prior to such sentence of imprisonment, and who is released by pardon or by having served his full term of imprisonment, shall be vested with all the rights of citizenship except as otherwise provided in the constitution.

COMMENTS

Based on 49-22-30 and 49-22-114. Provision prohibiting persons connected with any public utility seeking a franchise from being election judges is not included. Prohibits special election on voting machines during period of time from 60 days before primary until 60 days after general except in conjunction with primary and general elections.

Based on 49-22-6.

See also Colorado Constitution, Article VII, Section 1.

Residence in the precinct has been changed from 15 to 20 days to comply with registration deadline.

Based on 49-22-6(3). See Colorado Election Code of 1963 and Colorado Constitution, Article VII, Section 10.

TEXT

(b) No person under guardianship, non compos mentis, or insane shall be entitled to register or to vote at any regular or special municipal election.

(3)(a) The judges of election in determining the residence of a person offering to vote shall be governed by the following rules, so far as they may be applicable:

(b) That place shall be considered to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

(c) A person shall not be considered to have lost his residence who shall leave his home and go into another state or territory or another county or municipality of this state, merely for temporary purposes with an intention of returning.

(d) A person shall not be considered to have gained a residence in this state, or in any municipality in this state, when retaining his home or domicile elsewhere.

(e) If a person moves to any other state or territory with the intention of making it his permanent residence, he shall be considered to have lost his residence in this state.

(f) If a person moves from one municipality in this state to any other municipality in this state, with the intention of making it his permanent residence, he shall be considered and held to have lost his residence in the municipality from which he moved.

(4)(a) For the purpose of voting and eligibility to office, no person shall be deemed to have gained a residence by reason of his presence, or lost it by reason of his absence, while in the civil or military service of the state or of the United States; nor while a student at any institution of learning; nor while kept at public expense in any public prison or state institution unless the person is an employee or a member of the household of an employee of such prison or institution.

COMMENTS

Based on 49-22-62.

Based on 49-22-6(3). See Colorado Election Code of 1963.

TEXT

(b) The provisions of paragraph (a) of this subsection notwithstanding, no person otherwise qualified under the provisions of this act shall be denied the right to vote at any municipal election solely because he is a student at an institution of learning, if such student shall, at any time when registration is provided for by law, file with the county clerk a written affidavit under oath, in such form as may be prescribed, that he has established a domicile in this state, that he has abandoned his parental or former home as a domicile, and that he is not registered as an elector in any other municipality of this state or of any other state. The fact that such affidavit has been filed shall be noted in the registration book.

(c) No provisions of this subsection shall apply to the determination of residence or non-residence status of students for any college or university purpose.

SECTION 14. Submission of question to taxpaying electors -- oath. (1) On any question which is required by law to be submitted to taxpaying electors only, if the question is submitted on paper ballots, such ballots shall be deposited in a separate ballot box reserved for that purpose. If the question is submitted on voting machines, provision shall be made to assure that only registered taxpaying electors are permitted to vote on such question.

(2) The governing body, in its discretion, may require each registered taxpaying elector desiring to vote on a question which is submitted to taxpaying electors only, to sign a written oath that he has, during the twelve months next preceding the election, paid an ad valorem tax upon property situated within the municipality and owned by said person. If the elector is unable to write, he may request assistance from one of the judges of election, and such judge shall sign and witness the elector's mark.

SECTION 15. Registration required. (1) No person shall be permitted to vote at any municipal election without first having been registered within the time and in the manner required by sections 15 through 17 of this act.

COMMENTS

This is a new provision.

Based on 49-22-16. Sections 49-22-17 through 49-22-26, 49-22-29, 49-22-31, and 49-22-33 are replaced by sections 15 through 17 herein. Separate municipal registration has been declared unconstitutional by a district court in Arapahoe County.

TEXT

(2) Registration requirements for municipal elections shall be the same as those governing general elections. Registration with the county clerk shall constitute registration for municipal elections.

SECTION 16. Municipal clerk as deputy county clerk. Each municipal clerk shall serve as a deputy county clerk, for purposes of registration only, in the county or counties in which his municipality is located. The municipal clerk shall register any qualified elector residing in any precinct in such county who shall appear in person at his office at any time during which registration is permitted in the office of the county clerk, except the nineteen days preceding any municipal election. The municipal clerk shall deliver the new registration sheets to the office of the county clerk either in person or by certified mail on or before the fifteenth day of each month, and in person on the day following the last day for registration preceding any election for which registration is required.

COMMENTS

Registration by the county clerk for general elections is covered by article 4 of the Colorado Election Code of 1963. Registration deadline would be 20 days before the election.

If an elector is registered for general election purposes he is also registered for municipal election purposes. If he is not registered (or has been purged) for general election purposes, he is not registered for municipal election purposes. There would be no purging based on voting or non-voting in municipal elections.

The municipal clerk would be able to accept registrations on behalf of the county clerk, but he would not maintain a separate set of municipal registration books. Instead, he would forward the new registration sheets once a month.

The municipal clerk, in his capacity as deputy county clerk for purposes of registration, would follow the rules and procedures prescribed for the county clerk in the Colorado Election Code of 1963. The municipal clerk would not have the registration books in his possession when he accepts registrations. He would have only the blank registration sheets.

TEXT

COMMENTS

SECTION 17. Registration lists. The county clerk of each county, no later than the day preceding any municipal election in his county, shall prepare a complete copy of the list of the registered electors of each municipal election precinct which is located within his county and is involved in such municipal election; provided, that in any municipal election precinct consisting of one or more whole general election precincts, the county registration book or books for such precinct may be used in lieu of a separate registration list. The registration list for each municipal election precinct shall contain, in alphabetical order, the names and addresses of all electors residing within the municipal election precinct whose names appeared on the county registration books at the close of business on the twentieth day preceding the municipal election. The county clerk shall certify and deliver such registration lists or registration books to the respective municipal clerks on or before the day preceding the election.

The municipal clerk would not register anyone in his office after the deadline for registration for the municipal election. This provision is included to avoid confusing the voter about his eligibility to vote in the municipal election.

There would be no separate municipal registration offenses. Election offenses related to registration would be those found in the Colorado Election Code of 1963. Sections 49-22-122 through 49-22-126 would be deleted.

The county clerk would provide the municipal clerk with a list of the registered electors in each municipal election precinct. The county registration books could be used for this purpose in all cases where municipal election precinct boundaries coincide with general election precinct boundaries.

(Omitted section numbers have been reserved for expansion.)

TEXT

COMMENTS

NOMINATIONS

SECTION 20. Electors eligible to hold municipal office. Every qualified elector shall be eligible to hold any office to be filled by a municipal election, provided he has resided in the municipality, or municipality and ward, as the case may be, from which he is to be elected for a period of at least twelve consecutive months immediately preceding the date of the election. In case of an annexation, any person who has resided within the territory annexed for the prescribed time shall be deemed to have met the residence requirements for the municipality and precinct to which the territory was annexed.

Based on 49-22-7(6). Requirement for 12 months' residence in the municipality or ward is new.

SECTION 21. Nomination of municipal officers. (1) Candidates for municipal offices shall be nominated, without regard to political party affiliation, by petition on forms supplied by the clerk. A petition of nomination may consist of one or more sheets but it shall contain the name and address of only one candidate. The petition may designate one or more persons as a committee to fill a vacancy in such nomination.

Based on parts of 49-22-7(1), 49-22-7(3), 49-22-7(4), and 49-22-8. See section 23 herein on procedure for filling vacancy.

(2) Nomination petitions may be circulated and signed beginning on the forty-fifth day and ending on the twenty-fifth day prior to the day of election. Each petition shall be signed by qualified electors in the following numbers:

Based on 49-22-10 and part of 49-22-7(1).

(a) For a candidate in a city, at least twenty-five qualified electors residing within the city;

(b) For a candidate from a ward within a city, at least twenty-five qualified electors residing in the candidate's ward;

(c) For a candidate in an incorporated town, at least ten qualified electors residing within the town; and

(d) For a candidate from a ward within an incorporated town, at least ten qualified electors residing in the candidate's ward.

(3) Each qualified elector signing a petition shall add to his signature his place of residence. The circulator or circulators of each nomination petition shall make an affidavit that each signature thereon is the signature of the person whose name it purports to be

Based on 49-22-7(4).

TEXT

and that each signer has stated to the circulator that he is a qualified elector of the municipality, or municipality and ward, as the case may be, for which the nomination is made. The signature of each signer of a petition shall constitute prima facie evidence of his qualifications without the requirement that each signer make an affidavit as to his qualifications.

(4) No petition shall be valid that does not contain the requisite number of names of electors qualified to sign the petition. Any such petition may be amended in this respect at any time prior to fifteen days before the day of election.

(5) No elector shall sign more than one nomination petition for each separate office to be filled in his municipality, or municipality and ward, as the case may be. Each office of the governing body that is to be filled by the electorate shall be considered a separate office for the purpose of nomination. In municipalities in which offices of the governing body are to be filled both by election from wards and election at large, an elector may sign a nomination petition for each office to be filled from his ward and also for each office to be filled by election at large.

(6) Each nomination petition shall be filed with the clerk no later than the twenty-fifth day prior to the day of election. Every such petition shall have endorsed thereon or appended thereto the written affidavit of the candidate, accepting such nomination. The acceptance of nomination shall contain the full name and place of residence of the candidate.

(7) The clerk shall cause all nomination petitions to be preserved for the period of two years. All such petitions shall be open to public inspection, under proper regulation by the clerk with whom they are filed.

SECTION 22. Withdrawal from nominations. (1) Any person who has been nominated and who has accepted a nomination may cause his name to be withdrawn from such nomination, at any time prior to eighteen days before election, by a written affidavit withdrawing from such nomination. The affidavit stating withdrawal shall be signed by the candidate and filed with the clerk.

COMMENTS

Based on 49-22-7(2).

Based on 49-22-8.

Based on 49-22-7(5). Filing deadline is based on 49-22-10.

Based on 49-22-9.

Based on 49-22-14.

TEXT

(2) If the nomination petition designates one or more persons as a committee to fill a vacancy, the clerk shall immediately notify such person or persons of their candidate's withdrawal. If there be no such committee designated, then the clerk shall immediately notify the three persons whose names appear at the top of the nomination petition of the withdrawal of their candidate.

SECTION 23. Vacancies in nominations. (1) If any candidate should die or withdraw from the nomination prior to fifteen days before the day of election, the vacancy may be filled by the vacancy committee, if any, designated on the nomination petition or, if no vacancy committee is designated, by petition in the same manner required for original nomination. If any petition of nomination be insufficient or inoperative because of failure to remedy or cure the same, the vacancy thus occasioned may be filled by petition in the same manner required for original nomination.

(2) Any certificate of nomination or petition to fill a vacancy shall be filed with the clerk not later than the fifteenth day before the day of election.

SECTION 24. Objections to nominations. All petitions of nomination which are in apparent conformity with the provisions of section 21 of this act, as determined by the clerk, shall be deemed to be valid unless objection thereto shall be duly made in writing within three days after the filing of the same. In case objection is made, notice thereof shall be forthwith mailed to any candidate who may be affected thereby. The clerk shall pass upon the validity of all objections, whether of form or substance, and his decisions upon matters of form shall be final. His decisions upon matters of substance shall be open to review, if prompt application be made, as provided in section 135 of this act. But the remedy in all cases shall be summary, and the decision of the county court shall be final and not subject to review by any other court, except that the supreme court, in the exercise of its discretion, may review any such proceeding in a summary way. Said clerk shall decide objections within at least forty-eight hours after the same are filed, and any objection sustained may be remedied or defect cured upon the original petition, by an amendment thereto, or by filing a new petition within three days after such objection is sustained, but in no event later than the fifteenth day before the day of election.

(Omitted section numbers have been reserved for expansion.)

COMMENTS

Based on part of 49-22-15.

Based on 49-22-13.

TEXT

JUDGES AND CLERKS

SECTION 30. Appointment of election judges and clerks. At least fifteen days before each municipal election, the governing body shall appoint the judges and clerks of election and their alternates. Each judge, clerk, and alternate shall be a registered elector of the precinct in which he is appointed to serve. The municipal clerk shall make and file in his office a list of all persons so appointed, giving their names, addresses, and precincts. Such list shall be a public record and shall be subject to inspection and examination during office hours by any elector of the municipality with the right to make copies thereof.

SECTION 31. Number of judges, clerks, and alternates. (1) In municipalities using paper ballots, the governing body shall appoint three judges of election, three alternate judges, two clerks of election, and two alternate clerks for each municipal election precinct.

(2) In municipalities using voting machines, the governing body shall appoint not less than three judges of election and three alternate judges for each municipal election precinct; provided, that in each precinct in which more than one voting machine is used, the governing body may appoint one additional judge for each additional voting machine used in the precinct. No clerks of election shall be appointed in municipalities which use voting machines.

SECTION 32. Certificates of appointment. Immediately after appointment of the judges and clerks of election and their alternates, the municipal clerk shall issue certificates under his official seal certifying such appointments in each precinct. He shall mail one certificate to each person appointed.

SECTION 33. Acceptances. With each certificate of appointment transmitted by the municipal clerk to the judges and clerks of election and their alternates, there shall be enclosed a form for acceptance of the appointment. Each person appointed as an election judge or clerk or alternate shall file his acceptance in the office of the municipal clerk within seven days after the mailing

COMMENTS

New section covering parts of 49-22-35.

Judges and clerks would have to be registered as well as qualified electors.

Based on 49-22-35.

Based on 49-22-91(1).

Based on 49-22-36.

Based on 49-22-37.

TEXT

COMMENTS

by the municipal clerk of the certificate of appointment and the acceptance form. Failure of any person appointed as judge, clerk, or alternate to file an acceptance within said seven days shall result in a vacancy. Such vacancy shall be filled by an alternate or in the same way the original appointment was made.

SECTION 34. Vacancies. If for any reason any person appointed judge or clerk of election refuses, fails or is unable to serve, it shall be the duty of such person or any other judge or clerk to immediately notify the municipal clerk. The municipal clerk shall forthwith notify an alternate in such precinct to serve in the place of such person. If no alternate is available to fill the vacancy, the municipal clerk shall appoint any registered elector from the precinct in which the vacancy occurs.

Based on 49-22-41.

SECTION 35. Removal of judges and clerks. Any election judge or clerk who has neglected his duty or has committed, encouraged or connived at any frauds in connection therewith, or has violated any of the election laws, or has knowingly permitted others to do so, or has been convicted of any crime, or has violated his oath, or has committed any act which interferes or tends to interfere with a fair and honest election shall be summarily removed by the municipal clerk.

Based on 49-22-42.

SECTION 36. Oath of judges and clerks. (1) Before any votes are taken at any municipal election, the judges and clerks of election shall severally take an oath or affirmation in the following form:

Based on 49-22-38.

"I, _____, do solemnly swear (or affirm) that I am a citizen of the United States and the state of Colorado; that I am a registered elector in municipal precinct _____ in the municipality of _____; that I will perform the duties of judge (or clerk, as the case may be) according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same; that I will not try to ascertain how any elector voted; nor will I disclose how any elector voted if, in the discharge of my duties as judge (or clerk, as the case may be) such knowledge shall come to me, unless called upon to disclose the same before some court; and that I will not disclose the result of the votes until the polls have closed."

IXI

(2) The judges of the election may administer the oaths or affirmations to each other and to the clerks of the election. Each judge shall record and sign any such oaths or affirmations administered by him and shall attach the record to the poll book.

SECTION 37. Compensation of judges and clerks. (1) In municipalities using paper ballots, the judges and clerks at any municipal election shall each receive not less than five dollars nor more than twenty dollars in full compensation for their services as judge or clerk at such election, as shall be determined by the governing body of the municipality.

(2) In municipalities using voting machines, the judges of election at any municipal election shall each receive twenty dollars in full compensation for their services as judge or clerk at such election.

SECTION 38. Compensation for delivery of election returns and other election papers. The judges of election in each precinct shall select one of their number to deliver the election returns, registration book or list, ballot boxes, if any, and other election papers and supplies to the office of the municipal clerk. The judge so selected shall be paid the sum of two dollars for the performance of such service.

(Omitted section numbers have been reserved for expansion.)

NOTICE AND PREPARATION FOR ELECTIONS

SECTION 44. Clerk to give notice. (1) The municipal clerk, at least ten days before each municipal election, shall give written or printed notice of the election, stating the date of the election and the hours during which the polls will be open; designating the polling place of each precinct; stating the qualifications of persons to vote in the election; naming the officers to be elected and the questions to be voted upon; and listing the names of those candidates whose nominations have been

COMMENTS

Based on 49-22-39.

Based on 49-22-40.

Compensation remains optional with the governing body in municipalities which use paper ballots.

New provision is added to require that compensation be \$20 in municipalities which use voting machines.

Based on 49-22-91(3) and part of 49-22-78.

Based on 49-22-5 and 49-22-11.

Under the proposed provision, there would be only one notice instead of two. It would be given about 10 days before the election and would include the candidates' names as well as

TEXT

certified to him, which listing shall be as nearly as possible in the form in which such nominations shall appear upon the official ballot, with reference to wards where applicable. A copy of such notice shall be posted at the polling place in each precinct.

(2) In addition, the notice shall be published in not less than one nor more than two newspapers having general circulation in the municipality. The clerk, in selecting the paper or papers for such publication, shall select those which have the largest circulation within the municipality. For the purpose of ascertaining which papers have the largest circulation within the municipality, the clerk may require sworn certificates showing the number of bona fide subscribers to each newspaper. If the clerk finds it impracticable to make the publication on the tenth day before the election day, he shall make the same on the earliest possible day before the tenth day. The publications in any weekly newspapers shall be in the next to last issue thereof before the day of election.

SECTION 45. Establishing precincts and polling places. (1)(a) The governing body of each municipality shall divide the municipality into as many election precincts for municipal elections as it may deem expedient for the convenience of electors of said municipality, and shall designate the location and address for each precinct at which elections are to be held. Municipal election precincts shall consist of one or more whole general election precincts wherever practicable, and municipal clerks and governing bodies shall cooperate with their respective county clerks and boards of county commissioners to accomplish this purpose. In municipalities having wards, no precinct or part thereof shall be located within more than one ward and each ward shall contain at least one precinct. The precincts shall be numbered consecutively beginning with the number one. The precincts and polling places established pursuant to this section shall remain until changed by the governing body.

(b) In municipalities which use paper ballots, the governing body shall establish at least one precinct for every five hundred registered electors.

COMMENTS

the time and place of election. This notice would be in addition to ordinances calling special elections.

Based on 49-22-11.

Based on 49-22-44.

New provision is added to require that municipal precinct boundaries must follow general election precinct boundaries wherever practicable.

Wards could contain only whole precincts -- a precinct could not be split between wards.

Municipal precincts would be numbered consecutively.

The 500-electors maximum per precinct would apply only to municipalities using paper ballots.

TEXT

COMMENTS

(c) In municipalities which use voting machines, the governing body may determine the maximum number of registered electors in each precinct.

Based on part of 49-22-90.

(2)(a) Changes in the boundaries of election precincts or wards and the creation of new election precincts shall be completed not less than ninety days prior to any municipal election, except in cases of precinct changes resulting from annexations.

Based on part of 49-22-90. Adds a provision for annexations.

(b) All changes in precinct or ward boundaries and in municipal boundaries shall be reported by the municipal clerk to the county clerk, and a corrected map shall be transmitted to the county clerk as soon as possible after such changes have been effected.

New provision.

(3) It shall be the duty of the governing body to change any polling place upon a petition of a majority of the electors residing within the precinct.

SECTION 46. Judges may change polling place. (1) Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the judges of election, after having assembled at or as near as practicable to such place, and before receiving any vote, may move to the nearest convenient place for holding the election, and at such newly designated place forthwith proceed with the election.

Based on 49-22-45.

(2) Upon moving to a new polling place, the judges shall display a proclamation of the change and shall station a police officer or some other proper person at the original polling place to notify all electors of the new location for holding the election.

Based on 49-22-46.

SECTION 47. Number of voting booths or voting machines. (1) In municipalities which use paper ballots, the governing body shall provide in each polling place a sufficient number of voting booths. Each voting booth shall be situated so as to permit voters to prepare their ballots screened from observation and shall be furnished with such supplies and conveniences as will enable the voter to prepare his ballot for voting.

Based on part of 49-22-48.

The requirement for one voting booth for each 50 electors is deleted.

TEXT

(2) In municipalities which use voting machines, the governing body shall supply each precinct with a sufficient number of voting machines.

SECTION 48. Arrangement of voting machines or voting booths and ballot boxes. The voting machines or the voting booths and ballot box shall be situated in the polling place so as to be in plain view of the election officials and watchers. No person other than the election officials and those admitted for the purpose of voting shall be permitted within the immediate voting area, which shall be considered as within six feet of the voting machines or the voting booths and ballot box, except by authority of the judges of election, and then only when necessary to keep order and enforce the law.

SECTION 49. Delivery and custody of registration book or list.
(1) Prior to the delivery of the registration books or registration lists to the judges of election for use on election day, the municipal clerk shall attach to each book or list his certificate stating that such book or list contains the registration sheets or names of all registered electors residing in the municipal election precinct and stating the total number of registration sheets or names contained therein.

(2) One day prior to any municipal election, one of the judges of election from each precinct may call in person at the office of the clerk for the purpose of receiving the registration book or list and election supplies, or the clerk may deliver the same to one of said judges. The registration book or list shall be delivered to said judge in a sealed envelope or container. Said judge shall have custody of the registration book or list and shall give his receipt therefor. After the closing of the polls on the day of election, he shall seal the registration book or list and deliver it to the election judge selected to deliver the election returns, registration book or list, ballot boxes, if any, and other election papers and supplies to the office of the clerk.

COMMENTS

Covers part of 49-22-90.

Based on part of 49-22-48.

Guard rails would not be required. Detail on construction of voting booth is eliminated.

Based on 49-22-28.

TEXT

SECTION 50. Ballot boxes. The governing body of each municipality using paper ballots shall provide one ballot box for each polling place. Each ballot box shall be circular in form, with a small opening at the top thereof, and enclosed in a square wooden frame with a lid to be locked. The ballot boxes and keys shall be kept by the clerk and delivered to the judges of election within one day immediately preceding any municipal election, to be returned as provided in section 73 of this act. Nothing in this section shall prevent the governing body from obtaining ballot boxes from the office of the county clerk.

SECTION 51. Ballots. (1) The clerk of each municipality using paper ballots shall provide printed ballots for every municipal election. The official ballots shall be printed and in the possession of the clerk at least ten days before the election. In addition, sample ballots shall be printed and in the possession of the clerk ten days before the election and shall be subject to public inspection. The sample ballots shall be printed in the form of the official ballots but upon paper of a different color from the official ballots. Sample ballots shall be delivered to the judges of election and posted with the cards of instruction provided in section 55 of this act.

(2) Every ballot shall contain the names of all duly nominated candidates for offices to be voted for at that election, except those who have died or withdrawn, and the ballot shall contain no other names. The names of the candidates for each office shall be printed upon the ballot without political party designation and without any title or degree designating the business or profession of the candidate. The names shall be arranged alphabetically under the designation of the office, according to surname.

(3)(a) The ballots shall be printed to give each voter a clear opportunity to designate his choice of candidates by a cross mark (X) in the square at the right of the name. On the ballot may be printed such words as will aid the voter, such as "vote for not more than one".

COMMENTS

Based on 49-22-47.

Requirement for glass ballot box is eliminated. Requirement for three locks is also eliminated.

Based on 49-22-52.

Both sample ballots and official ballots would have to be ready at least 10 days before the election. The present law sets a 10-day deadline for sample ballots and a 3-day deadline for official ballots.

Based on 49-22-50(1) and part of 49-22-50(5).

Based on part of 49-22-50(2) and (3).

TEXT

(b) At the end of the list of candidates for each different office shall be as many blank spaces as there are persons to be elected to such office, in which the elector may write the name of any eligible person not printed on the ballot for whom he desires to vote as a candidate for such office; provided, that no cross mark (X) shall be required at the right of the name so written in.

(c) Whenever the approval of any question is submitted at a municipal election, such question shall be printed upon the ballot after the lists of candidates. The ballots shall be printed to give each voter a clear opportunity to designate his answer by a cross mark (X) in the appropriate square at the right of the question.

(4) The extreme top part of each ballot shall be divided by two perforated lines into two spaces, each of which shall be not less than an inch in width, the top portion being known as the stub and the next portion as the duplicate stub. Upon each of said stubs nothing shall be printed except the number of the ballot, and the same number shall be printed upon both stubs. Stubs and duplicate stubs of ballots shall both be numbered consecutively. All ballots shall be uniform and of sufficient length and width to allow for the names of candidates and the proposed questions to be printed in clear, plain type with a space of at least one-half inch between the different columns on said ballot. On the back of each ballot shall be printed the endorsement, "Official ballot for _____", and after the word "for" shall follow the designation of the precinct, ward, and municipality for which the ballot is prepared, the date of the election, and a facsimile of the signature of the clerk who has caused the ballot to be printed. The ballot shall contain no caption or other endorsement, except as provided in this section. Each clerk shall use precisely the same quality and tint of paper, the same kind of type, and the same quality and tint of plain black ink for all ballots furnished by him at one election. Whenever candidates are to be voted for only by the electors of a particular ward, the names of such candidates shall not be printed on any other ballots than those provided for use in such ward. The ballots shall be of such form that when folded the whole endorsement shall be visible and the contents of the ballot shall not be exposed.

COMMENTS

Based on part of 49-22-50(3).

Based on part of 49-22-50(3).

Based on 49-22-50(4) and (5).

TEXT

SECTION 52. Ballots changed if candidate dies. If any person duly nominated dies before the day fixed for the election, and the fact of such death becomes known to the clerk, the name of the deceased candidate shall not be printed upon the ballots for the election. If the ballots are already printed, the name of the deceased candidate shall be erased or cancelled, if possible, before the ballots are delivered to the electors.

SECTION 53. Printing and distribution of ballots. In municipalities using paper ballots the clerk shall cause to be printed and distributed to the election judges in the respective precincts a sufficient number of ballots. The ballots shall be sent in one or more sealed packages for each precinct with marks on the outside of each, clearly stating the precinct and polling place for which it is intended, together with the number of ballots enclosed. Such packages shall be delivered to one of the judges of election of such precinct between the close of business on Friday preceding election day and 8:00 p.m. on the Monday before election day. A receipt for ballots thus delivered shall be given by the election judge who receives them. The receipt shall be filed with the clerk, who shall also keep a record of the time when and the manner in which each of said packages was sent and delivered. The election judge receiving such package or packages shall produce the same, with the seal unbroken, in the proper polling place at the opening of the polls on election day, and in the presence of all election judges for the precinct, shall open the package or packages.

SECTION 54. Substitute ballots. If the ballots to be furnished to any election judge shall not be delivered by 8:00 p.m. on the Monday before election day, or if after delivery they shall be destroyed or stolen, the clerk shall cause other ballots to be prepared, as nearly in the form prescribed as practicable, with the word "substitute" printed in brackets immediately under the facsimile signature of the clerk. Upon receipt of ballots thus prepared, accompanied by a written and sworn statement of the clerk that the same have been so prepared and furnished by him, and that the original ballots have so failed to be received, or have been destroyed or stolen, the election judges shall cause the ballots so substituted to be used at the election. If from any cause none

COMMENTS

Based on part of 49-22-15.

Based on 49-22-54.

Ballots can be delivered between the close of business on Friday and 8:00 p.m. on Monday. Present law restricts delivery to the time between Saturday noon and 8:00 p.m. on Monday.

Based on 49-22-55.

TEXT

of the official ballots nor substitute ballots prepared by the clerk shall be ready for distribution at any polling place, or if the supply of ballots shall be exhausted before the polls are closed, unofficial ballots, printed or written, made as nearly as possible in the form of the official ballots, may be used until substitutes prepared by the clerk can be printed and delivered.

SECTION 55. Cards of instruction. The clerk shall furnish to the judges of election of each precinct a sufficient number of instruction cards for the guidance of voters in preparing their ballots. The election judges shall post at least one card in each polling place upon the day of the election. Such cards shall be printed in large, clear type, and shall contain full instructions to the voter as to what should be done:

- (1) To obtain ballots for voting;
- (2) To prepare the ballot for deposit in the ballot box;
- (3) To obtain a new ballot in the place of one spoiled by accident or mistake; and
- (4) To obtain assistance in marking ballots.

SECTION 56. Election expenses to be paid by municipality. The cost of conducting a municipal election, including the cost of printing and supplies, shall be paid by the municipality in which such election is held.

(Omitted section numbers have been reserved for expansion.)

CONDUCT OF ELECTIONS

SECTION 60. Hours of voting. At all elections held under this act, the polls shall be opened at seven a.m. and remain open until seven p.m. of the same day. If a full set of judges of election shall not attend at the hour of seven a.m., an alternate election judge or judges shall be called as provided in section 34 of this

COMMENTS

Based on 49-22-49.

The number of instruction cards is left to the discretion of the municipal clerk.

Based on 49-22-56 and also covers portions of 49-22-26, 49-22-47, and 49-22-54.

Based on 49-22-58.

Note that 49-22-80 and 49-22-81 are deleted. These sections concern the preservation of order at

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act. The polls shall be opened if a majority of judges is present, even though the alternate judge has not arrived. Every person, otherwise qualified to vote, who is standing in line waiting to vote at seven p.m. shall be permitted to vote.

SECTION 61. Watchers at municipal elections. Each candidate for office, or interested party in case of an issue, at a municipal election shall be entitled to appoint some person to act in his behalf in every precinct in which he is a candidate or in which the issue is on the ballot. Such candidate or interested party shall certify the names of the persons so appointed to the clerk on forms provided by the clerk. In case a watcher must leave the polling place he may designate an alternate to act in his behalf while he is absent, provided that such alternate is made known to the election judges by an affidavit of the person first named as a watcher.

SECTION 62. Employee entitled to vote. (1) Any registered elector entitled to vote at any municipal election held within this state shall be entitled to absent himself from any service or employment in which he is then engaged or employed on the day of such election for a period of two hours between the time of opening and time of closing the polls. Any such absence shall not be sufficient reason for the discharge of any such person from such service or employment. Such elector, because of so absenting himself, shall not be liable to any penalty, nor shall any deduction be made from his usual salary or wages on account of such absence. Electors who are employed and paid by the hour shall receive their regular hourly wage for the period of such absence not to exceed two hours. Application shall be made for such leave of absence prior to the day of election. The employer may specify the hours during which such employee may absent himself but such hours shall be at the beginning or ending of the work shift if the employee so requests.

(2) This section shall not apply to any person whose hours of employment on the day of the election are such that there are three or more hours between the time of opening and the time of closing of the polls during which he is not employed on the job.

COMMENTS

the polls and the appointment of special constables. Police officers can be called in to preserve order, without special statutory authorization.

Based on 49-22-43 and 49-22-64.
See also section 2(12) herein.

Based on 49-22-59.

TEXT

SECTION 63. Judges open ballot box first. In precincts which use paper ballots, it shall be the duty of the judges of the election, immediately before the opening of the polls, to open the ballot box in the presence of the people there assembled and turn it upside down so as to empty it of everything that may be in it, and then lock it securely. It shall not be reopened until the time for counting the ballots therein.

SECTION 64. Clerk or judge to keep poll book. A clerk or judge of the election shall keep a poll book which shall contain one column headed, "Names of voters," and one column headed, "Number on ballot". The name and number on the ballot of each elector voting shall be entered in regular succession under the headings in the poll book.

SECTION 65. Preparing to vote. (1) Any registered elector desiring to vote shall write his name and address on a form available at the polling place and shall give the form to one of the judges of election, who shall thereupon announce the same clearly and audibly. If the elector is unable to write, he may request assistance from one of the judges of election and such judge must sign the form and witness the elector's mark. The form to be available will be in substance:

I, _____,
who reside at _____,
am a registered elector of this precinct and desire
to vote at this _____
election.
Date _____.

If the name is found on the registration book or the registration list by the election judge or clerk having charge thereof, he shall likewise repeat the name, and the elector shall be allowed to enter the immediate voting area.

(2) Besides the election officials not more than four voters in excess of the number of voting booths or voting machines shall be allowed within the immediate voting area at one time.

COMMENTS

Based on 49-22-60.

Based on 49-22-63. See also section 2(16) herein.

Based on 49-22-64. Signature cards are new and follow the Colorado Election Code of 1963.

TEXT

COMMENTS

(3) The completed signature forms shall be returned with other election materials to the clerk. If no challenges have been made, the forms may be destroyed after forty-five days.

(4) If the judges are using the registration book and the elector's signature does not appear on his registration sheet, the elector shall show identification and sign his registration sheet before being allowed to vote. If the elector is unable to write, he may request assistance from one of the judges of election and such judge must sign the registration sheet and witness the elector's mark.

(5) In precincts using paper ballots, an election judge or clerk shall give the elector one, and only one, ballot, which shall be removed from the package of ballots by tearing the same along the perforated line between the stub and duplicate stub. Before delivering such ballot to the elector, the judge or clerk of election having charge of the ballots shall endorse his initials on the duplicate stub, and the judge or clerk shall enter the date and the number of said ballot on the registration book or registration list opposite the name of the elector.

SECTION 66. Manner of voting in precincts which use paper ballots. (1) In precincts which use paper ballots, on receiving his ballot the elector shall immediately retire alone to one of the voting booths provided, and shall prepare his ballot by marking or stamping in ink or indelible pencil, in the appropriate margin or place, a cross (X) opposite the name of the candidate of his choice for each office to be filled; provided, that no cross (X) shall be required opposite the name of a write-in candidate. In case of a question submitted to a vote of the people, the elector shall mark or stamp, in the appropriate margin or place, a cross (X) opposite the answer which he desires to give. Before leaving the voting booth the elector shall fold his ballot without displaying the marks thereon, so that the contents of the ballot shall be concealed and the stub can be removed without exposing any of the contents of the ballot, and he shall keep the same so folded until he has deposited his ballot in the ballot box.

Based on 49-22-71.

TEXT

COMMENTS

(2) Each elector who has prepared his ballot and is ready to vote shall then leave the voting booth and approach the judge of election having charge of the ballot box. He shall give his name to that judge, who shall announce the name of such elector and the number upon the duplicate stub of his ballot, which number must correspond with the stub number previously placed on the registration book or registration list. If the stub number of the ballot corresponds and is identified by the initials of the judge or clerk placed thereupon, the judge or clerk shall then remove the duplicate stub from such ballot. The election official in charge of the poll book shall thereupon write the name of such elector and the number of the ballot upon the poll book, and such ballot shall then be returned to the elector who shall thereupon, in full view of the judges of election, cast his vote by depositing the ballot in the ballot box, with the official endorsement on said ballot uppermost.

(3) Each elector shall mark and deposit his ballot without undue delay, and shall leave the immediate voting area as soon as he has voted. No elector shall be allowed to occupy a voting booth already occupied by another, nor to remain within the immediate voting area more than ten minutes, nor to occupy a voting booth for more than five minutes if all such booths are in use and other voters are waiting to occupy the same. No elector whose name has been entered on the poll book shall be allowed to re-enter the immediate voting area during the election, except a judge or clerk of election.

SECTION 67. Disabled voter -- assistance. (1) If at any regular or special municipal election, any voter shall declare under oath to the judges of election of the precinct where he is entitled to vote that by reason of blindness or other physical disability, he is unable to prepare his ballot or operate the voting machine without assistance, then he shall be entitled, upon his request, to receive the assistance of any one of the election judges or clerks or at his option of any elector of the precinct selected by the disabled voter. No person other than a judge of election in the precinct shall be permitted to enter the polling booth as an assistant to more than one voter.

Based on 49-22-72.

TEXT

(2) A notation shall be made in the poll book opposite the name of each voter thus assisted, stating that the voter has been assisted.

SECTION 68. Spoiled ballots. In precincts which use paper ballots, no person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot, he may successively obtain others, one at a time, not exceeding three in all, upon returning each spoiled one. The spoiled ballots thus returned shall be immediately cancelled and shall be preserved and returned to the clerk along with other election records and supplies.

SECTION 69. Counting paper ballots. (1) In precincts which use paper ballots, as soon as the polls at any election shall have finally closed, the judges shall immediately open the ballot box and proceed to count the votes polled, and the counting thereof shall be continued until finished before the judges and clerks shall adjourn. They shall first count the number of ballots in the box. If the ballots shall be found to exceed the number of names entered on the poll book, the judges of election shall then examine the official endorsements upon the outside of the ballots without opening the same, and if, in the unanimous opinion of the judges, any of the ballots in excess of the number on the poll book be deemed not to bear the proper official endorsement, they shall be put into a separate pile by themselves, and a separate record and return of the votes in such ballots shall be made under the head of "excess ballots." When the ballots and the poll book agree, the board shall proceed to count the votes. Each ballot shall be read and counted separately, and every name separately marked as voted for on such ballot, where there is no conflict to obscure the intention of the voter, shall be read and marked upon the tally sheets, before any other ballot is proceeded with. The entire number of ballots, excepting "excess ballots," shall be read and counted and placed upon the tally sheets in like manner. When all of the ballots, excepting "excess ballots," have been counted the board shall estimate and publish the votes.

(2) When all the votes have been read and counted, the ballots, together with one of the tally lists, shall be returned to

COMMENTS

Based on 49-22-73.

Based on 49-22-74 and part of 49-22-78.

TEXT

the ballot box and the opening shall be carefully sealed, and each of the judges shall place his initials on said seal. The cover shall then be locked and the ballot box delivered to the clerk as provided in section 73 of this act.

(3) All persons except judges, clerks, and watchers shall be excluded from the place where the counting is being carried on until the count has been completed.

SECTION 70. Clerks to keep tally sheets. As the judges of election shall open and read the ballots, each clerk, upon tally sheets prepared by the clerk for that purpose, shall carefully mark down the votes each of the candidates shall have received.

SECTION 71. Defective ballots. If a voter marks in ink or indelible pencil more names than there are persons to be elected to an office, or if, for any reason, it is impossible to determine the choice of any voter for any office to be filled, his ballot shall not be counted for such office. A defective or an incomplete cross marked on any ballot in ink in a proper place shall be counted if there be no other mark or cross in ink or indelible pencil on such ballot indicating an intention to vote for some person other than those indicated by the first mentioned defective cross or mark. No ballot without the official endorsement, except as provided in section 54 of this act, shall be allowed to be deposited in the ballot box, and none but ballots provided in accordance with the provisions of this act shall be counted. Whenever the judges of election in any precinct discover in the counting of votes that the name of any candidate voted for be misspelled, or the initial letters of his given name be transposed or omitted in part or altogether on the ballot, the vote for such candidate shall be counted for him if the intention of the elector to vote for him be apparent. Ballots not counted shall be marked "defective" on the back thereof, and shall be preserved for such time as is provided in section 75 of this act for ballots and destroyed as therein directed.

COMMENTS

Based on 49-22-75.

Based on 49-22-76 and 49-22-77.

TEXT

SECTION 72. Judges' certificate. (1) As soon as all the votes shall have been read and counted, the judges of election shall make a certificate, attested by the clerks, stating the name of each candidate, designating the office for which such person received votes, and stating the number of votes he received, the number being expressed in words at full length and in numerical figures, such entry to be made as nearly as circumstances will admit, in the following form:

"At an election held at _____ in _____ precinct in the municipality of _____ and state of Colorado, on the _____ day of _____, in the year _____, the following named persons received the number of votes annexed to their respective names for the following described offices: total number of votes cast were _____, A.B. had seventy-two (72) votes for mayor; C.D. had seventy-one (71) votes for mayor; N.O. had seventy-two (72) votes for councilman or trustee; P.Q. had seventy-one (71) votes for councilman or trustee; and in the same manner for any other persons voted for.

Attest: G.H.) Clerks of election A.B.)
I.J.) C.D.) Judges of Election"
E.F.)

(2) In addition, the judges of election shall make a statement in writing showing the number of ballots voted, making a separate statement of the number of unofficial and substitute ballots voted, the number of ballots delivered to voters, the number of spoiled ballots, the number of ballots not delivered to voters, and the number of ballots returned, identifying and specifying the same. All unused ballots, spoiled ballots, and stubs of ballots voted shall be returned with such statement.

SECTION 73. Delivery of election returns, ballot boxes, and other election papers. When all the votes have been read and counted, the election officials selected in accordance with section 38 of this act shall deliver to the clerk the certificate and statement required by section 72 of this act, the ballot boxes and

COMMENTS

Based on 49-22-78 and part of 49-22-73.

Based on parts of 49-22-78 and 49-22-73.

TEXT

all keys thereto, the registration list, poll books, tally sheets, spoiled ballots, unused ballots, ballot stubs, oaths, affidavits, and other election papers and supplies. Such delivery shall be made at once and with all convenient speed, and informality in such delivery shall not invalidate the vote of any precinct when delivery shall have been made previous to the completion of the official abstract of the votes by the canvassers. The clerk shall give his receipt for all such papers so delivered.

SECTION 74. Judges to post returns. In addition to all certificates otherwise required to be made of the count of votes polled at any election, the judges of election are hereby required to make out an abstract of the count of votes, which abstract shall contain the names of the offices, names of the candidates, ballot titles and submission clauses of all initiated, referred or other measures voted upon, and the number of votes counted for or against each candidate or measure. Said abstract shall be posted in a conspicuous place upon the outside of the polling place immediately upon completion of the count. The abstract may be removed at any time after forty-eight hours following the election. Suitable blanks for the abstract required above shall be prepared, printed and furnished to all judges of election at the same time and in the same manner as other election supplies are furnished.

SECTION 75. Preservation of ballots and election records.
(1) The ballots, when not required to be taken from the ballot box for the purpose of election contests, shall remain in the ballot box in the custody of the clerk until six months after the election at which such ballots were cast, or until the time has expired for which the ballots would be needed in any contest proceedings, at which time the ballot box shall be opened by the clerk and the ballots destroyed by fire. If the ballot boxes be needed for a special election before the legal time for commencing any proceedings in the way of contests shall have elapsed, or in case such clerk, at the time of holding such special election, shall have knowledge of the pendency of any contest in which the ballots would be needed, the clerk shall preserve the ballots in some secure manner and provide for their being so kept that no one can ascertain how any elector may have voted.

COMMENTS

Based on 49-22-79.

Based on 49-22-57.

TEXT

(2) The clerk shall preserve all other official election records and forms for at least six months following a regular or special election.

(Omitted section numbers have been reserved for expansion.)

VOTING MACHINES

SECTION 80. Use of voting machines. Voting machines may be used in any municipal election provided the governing body by resolution authorizes their use. The adoption and use of voting machines for municipal elections shall be in accordance with the provisions for the adoption and use of voting machines for general and primary elections insofar as such provisions are applicable to municipal elections.

SECTION 81. Judges to inspect machines. The judges of election of each precinct using voting machines shall meet at the polling place therein, at least three-quarters of an hour before the time set for the opening of the polls at each election. Before the polls are open for election, each judge shall carefully examine each machine used in the precinct and see that no vote has been cast and that every counter, except the protective counter, registers zero.

SECTION 82. Sample ballots, ballot labels, and cards of instruction. (1) Sample ballots shall be printed and in the possession of the clerk ten days before the election and shall be subject to public inspection. The sample ballots shall be arranged in the form of a diagram showing the front of the voting machine as it will appear after the official ballot labels are arranged thereon for voting on election day. Such sample ballots may be either in full or reduced size. The clerk shall provide at least two sample ballots for each election precinct, to be delivered to the judges of election and posted in the polling place on election day.

COMMENTS

Based on 49-22-89.

Based on 49-22-91(2).

Based on 49-22-92.

TEXT

COMMENTS

(2) The clerk shall also prepare and place on each voting machine to be used in election precincts under his supervision a set of official ballot labels arranged in the manner prescribed for the official election ballot to be used on voting machines. When there is more than one person to be elected to an office, there shall be provided two, and only two, spaces for write-in purposes for each different office. No cross mark (X) shall be required opposite the name of a write-in candidate. The clerk shall deliver the required number of voting machines, equipped with the official ballot, to each election precinct no later than the day prior to the day of election.

(3) Cards of instruction for the guidance of voters in casting their ballots on voting machines shall also be supplied by the clerk as provided in section 55 of this act.

SECTION 83. Instructions to vote. In case any elector after entering the voting machine shall ask for further instructions concerning the manner of voting, a judge shall give such instruction to him; but no judge or other election officer or person assisting an elector shall enter the voting machine, except as provided in section 67 of this act, or in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question or proposition. After receiving such instruction, such elector shall vote as in the case of an unassisted voter.

Based on part of 49-22-92(4).

SECTION 84. Length of time to vote. No voter shall remain within the voting machine booth longer than three minutes. If he shall refuse to leave after a lapse of three minutes, he shall be removed by the judges, provided, the judges in their discretion may permit a voter to remain longer than three minutes.

Based on part of 49-22-92(4).

SECTION 85. Judge to watch voting machines. The judges shall designate at least one of their number to be stationed beside the entrance to the voting machine during the entire period of the election to see that it is properly closed after a voter had entered to vote. At such intervals as he may deem proper or necessary, the

Based on part of 49-22-92(4).

TEXT

judge shall examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer, and to repair any injury.

SECTION 86. Clerk to supply seals for voting machines.

The clerk shall supply each election precinct with a seal for each voting machine to be used in the precinct, for the purpose of sealing the machine after the polls are closed; and an envelope for the return of the keys to the machine, along with the election returns.

SECTION 87. Close of polls and count of votes.

As soon as the polls are closed the judges of election shall immediately lock and seal each voting machine against further voting, and it shall so remain for the period of thirty days unless otherwise ordered by the court. Immediately after each machine is locked and sealed the judges of election shall then open the counting compartments thereof and proceed to count the votes thereon. After the total vote for each candidate and upon each question or proposition has been ascertained, the judges of election shall make out a certificate of votes cast in numerical figures only and return the same to the clerk as provided in section 73 of this act.

SECTION 88. Election laws apply -- separate absentee ballots permitted. All of the provisions of this act not inconsistent with the provisions of sections 80 through 87 of this act shall apply to all elections held in precincts where voting machines are used. Nothing in sections 80 through 87 of this act, however, shall be construed as prohibiting the use of a separate paper ballot by absentee voters or for charter amendments where such is required.

(Omitted section numbers have been reserved for expansion.)

COMMENTS

Based on 49-22-92(5).

Based on 49-22-93.

Based on 49-22-94.

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COMMENTS

ABSENTEE VOTING

SECTION 92. When absent electors may vote. When any registered elector of a municipality, on the day of any regular or special election held pursuant to law, shall be absent from his municipality, or by reason of his work or the nature of his employment is likely to be absent and fears that he will be absent from his municipality on said day, or because of serious illness or physical disability or for reasons based upon the doctrines of established religions shall be unable to attend the polls, he may cast his ballot at such election in the manner provided in sections 92 through 98 of this act.

Based on 49-22-82.

SECTION 93. Application for absentee ballot -- delivery -- list. (1) Applications for absent voters' ballots shall be filed with the clerk not earlier than ninety days before and not later than the close of business on the Friday immediately preceding such regular or special election. The application may be in the form of a letter, stating the applicant's residence address and that he will be absent from the municipality on the day of said regular or special election, or that his work or employment (stating nature thereof) is such that he is likely to be absent and fears that he will be absent from the municipality on said day, or that on account of serious illness or physical disability he shall be unable to attend the polls, or that for reasons based upon the doctrines of the established religion of which such applicant is a member, he shall be unable to attend the polls.

Based on 49-22-83.

(2) Upon receipt of an application for an absent voter's ballot within the proper time, the municipal clerk receiving it shall examine the records of the county clerk to ascertain whether or not such applicant is registered and lawfully entitled to vote as requested, and if found to be so, he shall deliver to the applicant personally in the clerk's office or by mail to the mailing address given in the application an official absent voter's ballot, an identification return envelope with the affidavit thereon properly filled in as to precinct and residence address as shown by the records of the county clerk, and an instruction card.

TEXT

COMMENTS

(3) Before any absent voter's ballot is delivered or mailed, or before any registered elector is permitted to cast his vote on an absent voter's voting machine, the clerk shall record the elector's name, precinct number, and the number appearing on the stub of the ballot, together with the date the ballot is delivered or mailed. This information shall be recorded on the registration sheet or registration list before the registration book or list is delivered to the judges of election. A separate list of the electors who have received absent voters' ballots shall be delivered to the judges of election in the precinct designated for counting absentee ballots.

SECTION 94. Affidavit on return envelope. The return envelope shall have printed on its face an affidavit substantially in the following form:

Based on part of 49-22-83.

"From _____
State of _____
Municipality of _____, County of _____

I, _____, being first duly sworn according to law, depose and say that I am a qualified and registered elector in precinct no. _____, municipality of _____ and state of Colorado; that my residence and postoffice address is _____; and that I herein enclose my ballot in accordance with the provisions of the Colorado Municipal Election Code of 1965.

Signature of Voter

Subscribed and sworn to before me this _____ day of _____, 19____.

Official's signature

(SEAL)

(Title of officer)

Clerk

Municipality"

TEXT

Based on 49-22-84.

COMMENTS

SECTION 95. Manner of absentee voting by paper ballot. (1) Any registered elector applying for and receiving an absent voter's ballot, in casting such ballot, shall make and subscribe to the affidavit on the return identification envelope before an officer authorized by law to administer oaths, who shall administer said oath without charge therefor. The voter shall thereupon mark the ballot, in the presence of such officer and no other person, but in such a manner that such officer cannot know how the ballot is marked. The voter shall, in the presence of such officer, fold the ballot so as to conceal the marking, deposit it in the return envelope, and seal the envelope securely. The envelope may be delivered personally or mailed by the voter to the clerk issuing the ballot. It shall be permissible for a voter to deliver the ballot to any person of his own choice or to any duly authorized agent of the clerk for mailing or personal delivery to the clerk. All such envelopes containing absent voters' ballots shall be in the hands of the clerk not later than the hour of 5:00 p.m. on the day of election.

(2) Upon receipt of an absent voter's ballot the clerk shall write or stamp upon the envelope containing the same, the date and hour such envelope was received in his office, and, if the ballot was delivered in person, the name and address of the person delivering the same. He shall safely keep and preserve all absent voters' ballots unopened until the time prescribed for delivery to the judges of one of the precincts, as provided in section 97 of this act.

SECTION 96. Absent voters' voting machines. Any municipality using voting machines may provide one or more voting machines in the clerk's office for the use of qualified applicants for absent voters' ballots. If such machines are provided, they shall be available from twelve days prior to the election until the closing of business on the Friday immediately preceding the election. Votes on such machines shall be cast and counted in the same manner as votes would be cast and counted on a voting machine in a precinct polling place on election day. The clerk shall supervise the casting and counting of absent voters' ballots on the machines. The machines shall remain locked and the tabulation of the votes cast shall remain unknown until the day of the election.

This is a new provision. It is similar to the Colorado Election Code of 1963.

TEXT

SECTION 97. Delivery to judges. Not later than 8:30 a.m. on the day of any municipal election, the clerk shall deliver to the judges of one of the precincts of the municipality (which precinct shall be selected by the clerk) all the absent voters' envelopes received up to that time, in sealed packages, taking a receipt therefor, together with the list of absent voters. The clerk shall continue to so deliver any such envelopes which may be received thereafter during said day to and including 5:00 p.m. On such packages shall be printed or written, "This package contains (number) absent voters' ballots." With such envelopes the clerk shall deliver to one of the election judges written instructions which shall be followed by the judges of election in casting and counting such ballots, and all such books, records, and supplies as shall be needed for tabulating, recording, and certifying said absent voters' ballots.

SECTION 98. Casting and counting absentee ballots. If the affidavit on the envelope containing the absent voter's ballot is properly sworn to, one of the judges shall open such voter's identification envelope in the presence of a majority of the judges and, after announcing in an audible voice the name of such absent voter, he shall tear open such envelope without defacing the affidavit or certificate printed thereon or mutilating the enclosed ballot. Such ballot shall then be cast and counted in the same manner as if such absent voter had been present in person, except that one of the judges shall deposit the ballot in the ballot box without unfolding it. The absentee vote shall be certified separately from the vote of the precinct where it is counted.

SECTION 99. Challenge of absentee ballots -- rejection -- record. (1) The vote of any absent voter may be challenged in the same manner as other votes are challenged and the judges of election shall have power and authority to determine the legality of such ballot. If the challenge be sustained, or if the judges determine that the affidavit accompanying the absent voter's ballot is insufficient, or that the voter is not a qualified registered elector, the envelope containing the ballot of such voter shall not be opened and the judges shall endorse on the back of the envelope the reason therefor. Whenever it shall be made to appear to the

COMMENTS

Based on 49-22-85.

Based on 49-22-86.

Based on 49-22-87.

TEXT

judges of election by sufficient proof that any elector who has marked and forwarded his ballot has died, then the envelope containing the ballot of such deceased voter shall not be opened and the judges shall make proper notation on the back of such envelope. If an absent voter's envelope contains more than one marked ballot of any one kind, none of such ballots shall be counted and the judges shall make notation on the back of the ballots the reason therefor. Judges of election shall certify in their returns the number of absent voters' ballots cast and counted and the number of such ballots rejected.

(2) All absent voters' identification envelopes, ballot stubs, and absent voters' ballots rejected by the judges of election in accordance with the provisions of this section shall be returned to the clerk. All absent voters' ballots received by the clerk after 5:00 p.m. the day of the election, together with those rejected and returned by the judges of election as provided in this section, shall remain in the sealed identification envelopes and be destroyed later, as provided in section 75 of this act.

(3) If an absent voter's ballot is not returned, or if it be rejected and not counted, such fact shall be noted on the record kept by the clerk. Such record shall be open to public inspection under proper regulations.

SECTION 100. Oaths for absentee ballots. The oath required by section 95 of this act may be subscribed and sworn to before any United States postmaster or before any official authorized by law to administer oaths, including the clerk. Any such official may do and perform such other acts as are necessary to enable a qualified elector to avail himself of the provisions of sections 92 through 99 of this act. If such absent voter be in the military or naval service of the United States or of the State of Colorado then such oath may be administered and such acts done by any commissioned officer of such military or naval forces.

(Omitted section numbers have been reserved for expansion.)

COMMENTS

Based on 49-22-88.

TEXT

CHALLENGE

SECTION 105. No voting unless registered. No person shall be permitted to vote at any regular or special municipal election unless his name shall be found on the registration list or official registration book.

SECTION 106. Right to vote may be challenged. (1) When any person whose name appears on the registration list or in the registration book shall make application for a ballot, his right to vote at that poll and election may be challenged. If the person so applying is not entitled to vote, no ballot shall be delivered to him. Any person may also be challenged when he shall offer his ballot for deposit in the ballot box.

(2) It shall be the duty of any judge of election to challenge any person offering to vote whom he shall believe not to be a qualified elector. In addition, challenges may be made by clerks, watchers, or any elector of the precinct who is present.

SECTION 107. Challenge to be made by written oath. Each challenge shall be made by written oath, signed by the challenger under penalty of perjury, setting forth the name of the person challenged and the basis for the challenge. The judges of election shall deliver all challenges and oaths to the clerk at the time the other election papers are returned. The clerk shall forthwith deliver all challenges and oaths to the district attorney for investigation and appropriate action.

SECTION 108. Challenge questions asked voter. If a person offering to vote be challenged as unqualified, one of the judges shall tender to him the following written oath or affirmation: "You do solemnly swear or affirm that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualifications as a registered elector at this election."

(1) If the person be challenged as unqualified on the ground that he is not a citizen, and will not exhibit his papers pertaining

COMMENTS

Based on 49-22-61.

Based on part of 49-22-64.

Based on 49-22-70.

New provision similar to the Colorado Election Code of 1963.

Based on 49-22-65.

TEXT

COMMENTS

to his naturalization, the judges, or one of them, shall put the following questions:

(a) Are you a citizen of the United States?

(b) Are you a native or naturalized citizen?

(c) Have you become a citizen of the United States by reason of the naturalization of your parents, or one of them?

(d) Where were your parents, or one of them, naturalized? If the person offering to vote claims to be a naturalized citizen of the United States, he shall state, under oath, where and in what courts he was naturalized.

(2) If the person be challenged as unqualified on the ground that he has not resided in this state for one year immediately preceding the election, the judges, or one of them, shall put the following questions:

(a) Have you resided in this state for one year immediately preceding this election?

(b) Have you been absent from this state within the one year immediately preceding this election, and during that time have you retained a home or domicile elsewhere?

(c) If so, when you left, was it for a temporary purpose, with the design of returning, or did you intend to remain away?

(d) Did you, while absent, look upon and regard this state as your home?

(e) Did you, while absent, vote in any state or territory?

(3) If the person be challenged on the ground that he has not resided in the county for ninety days, in the municipality for thirty days, or in the precinct for twenty days, one of the judges shall question him as to his residence in the county, municipality, or precinct in a manner similar to the method of questioning a person as to his residence in this state.

TEXT

(4) If the person be challenged as unqualified on the ground that he is not twenty-one years of age, the judges, or one of them, shall ask the following question:

"Are you twenty-one years of age, to the best of your knowledge and belief?"

(5) If the person challenged shall answer satisfactorily all of the questions put to him, he shall sign his name on the form of the challenge after the printed questions. The judges of election shall indicate in the proper place on the form of challenge whether the challenge was withdrawn and whether the challenged voter refused to answer the questions and left the polling place without voting.

SECTION 109. Oath of challenged voter. If the challenge be not withdrawn after the person offering to vote shall have answered the questions put to him, one of the judges shall tender him the following oath:

"You do solemnly swear or affirm that you are a citizen of the United States, of the age of twenty-one years or over, that you have been a resident of this state for one year next preceding this election, and have not retained a home or domicile elsewhere; that you have been for the last ninety days a resident of this county; that you have been for the last thirty days and now are, a resident of this municipality; that you have been for the last twenty days, and now are, a resident of this precinct or have removed therefrom not more than twenty days as provided in section 13 of this act; that you are a registered elector of this precinct; and that you have not voted at this election."

After the person has taken the oath or affirmation, his ballot shall be received and the word "sworn" shall be written on the poll book after the person's name.

SECTION 110. Refusal to answer questions or take oath. If the challenged person shall refuse to answer fully any question which shall be put to him as provided in section 108 of this act, or shall refuse to take the oath or affirmation tendered as provided in section 109 of this act, the judges shall reject his vote.

COMMENTS

Based on 49-22-66 and 49-22-69.

Based on 49-22-67 and 49-22-68.

TEXT

(1) When the contestee is not eligible to the office to which he has been declared elected.

(2) When illegal votes have been received or legal votes rejected, at the polls in sufficient numbers to change the results.

(3) For any error or mistake on the part of any of the judges of election or the municipal clerk and his assistant in counting or declaring the result of the election, if the error or mistake would be sufficient to change the result.

(4) For malconduct, fraud, or corruption on the part of the judges of election in any precinct, or any municipal clerk or his assistant, if the malconduct, fraud, or corruption would be sufficient to change the result.

(5) For any other cause which shows that another was the legally elected person.

SECTION 126. District judge to preside -- bond. (1) All contested election cases of municipal officers shall be tried and determined in the district court of the county in which the municipality is located. Where a municipality is located in more than one county, the district court of either county shall have jurisdiction. The style and form of process, the manner of service of process and papers, the fees of officers, and judgment for costs and execution thereon shall be according to the rules and practices of the district court.

(2) Before the district court shall be required to take jurisdiction of the contest, the contestor must file with the clerk of said court a bond, with sureties, to be approved by the district judge, running to said contestee and conditioned to pay all costs in case of failure to maintain his contest.

SECTION 127. Filing statement -- contents. The contestor shall file in the office of the clerk of the district court, within ten days after the day when the votes are canvassed, a written statement of his intention to contest the election, setting forth the name of the contestor; that he is an elector of the municipality; the name of the contestee; the office contested; the

COMMENTS

Based on sections 147, 152, and 153 of Chapter 39, Session Laws of 1964.

Based on section 148 of Chapter 39, Session Laws of 1964.

TEXT

time of election; and the particular causes of the contest. The statement shall be verified by the affidavit of the contestor, or some elector of the municipality, that the causes set forth in such statement are true, to the best of his knowledge and belief.

SECTION 128. Summons -- answer. (1) The clerk of the district court shall thereupon issue a summons in the ordinary form, in which the contestor shall be named as plaintiff and the contestee as defendant, stating the court in which the action is brought, and a brief statement of the causes of contest, as set forth in the contestor's statement. The summons shall be served upon contestee, in the same manner as other summonses are served out of the district court of this state.

(2) The contestee, within ten days after the service of such summons, shall make and file his answer to the same with the clerk of said court, in which he shall either admit or specifically deny each allegation intended to be controverted by contestee on the trial of such contest, and shall set up in such answer any counter statement which he relies upon as entitling him to the office to which he has been declared elected.

(3) When the reception of illegal or the rejection of legal votes is alleged as the cause of the contest, a list of the number of persons who so voted, or offered to vote, shall be set forth in the statement of contestor, and shall be likewise set forth in the answer of contestee, if any such cause is alleged in his answer by way of counter statement.

(4) When the answer of the contestee contains new matter constituting a counter statement, the contestor, within ten days after the filing of such answer, shall reply to the same, admitting or specifically denying, under oath, each allegation contained in such counter statement intended by him to be controverted on the trial, and file the same in the office of the clerk of the district court.

SECTION 129. Trial and appeals. Immediately after the joining of issue, the district court shall fix a day for the trial

COMMENTS

Based on sections 149 and 150 of Chapter 39, Session Laws of 1964.

Based on section 151 of Chapter 39, Session Laws of 1964.

TEXT

COMMENTS

to commence, not more than twenty nor less than ten days after the joining of issue. Such trial shall take precedence over all other business in said court. The testimony may be oral, or by depositions taken before any officer authorized to take depositions. Any depositions taken to be used upon the trial of such contest may be taken upon four days' notice thereof. The district judge shall cause the testimony to be taken in full and filed in said cause. The trial of such causes shall be conducted according to the rules and practice of the district court in other cases. Such proceedings may be reviewed and finally adjudicated by the supreme court of the state, if application to such court is made by either party and if the supreme court shall be willing to assume jurisdiction of the case.

SECTION 130. Recount. If, upon the trial of any contested election under this act the statement or counter statement sets forth an error in canvass sufficient to change the result, the trial judge shall have power to conduct a recount of the ballots cast or the votes tabulated on the voting machines in the precinct or precincts where the alleged error was made. The court may also require the production before it of such witnesses, documents, records and other evidence as may have or contain information regarding the legality of any vote cast or counted for either of the contesting candidates, or the correct number of votes cast for either candidate, and may correct the canvass in accordance with the evidence presented and its findings thereon.

SECTION 131. Judgment. The court shall pronounce judgment whether the contestee or any other person was duly elected. The person so declared elected will be entitled to the office upon qualification. If the judgment be against the contestee and he has received his certificate, the judgment annuls it. If the court finds that no person was duly elected, the judgment shall be that the election be set aside and that a vacancy exists.

(Omitted section numbers have been reserved for expansion.)

Based on 49-22-111.

Based on 49-22-112.

LEXI

OTHER JUDICIAL PROCEEDINGS

SECTION 135. Controversies. (1) Whenever any controversy shall arise between any official charged with any duty or function under this act and any candidate or other person, the district court, upon the filing of a verified petition by any such official or persons setting forth in concise form the nature of the controversy and the relief sought, shall issue an order commanding the respondent in such petition to appear before the court and answer under oath to such petition. It shall be the duty of the court to summarily hear and dispose of any such issues, with a view to obtaining a substantial compliance with the provisions of this act by the parties to such controversy, and to make and enter orders and judgments, and issue the writ of process of such court to enforce all such orders and judgments.

(2) Such proceedings may be reviewed and finally adjudicated by the supreme court of the state, if application to such court is made within five days after the termination thereof by the court in which the petition was filed, if the supreme court shall be willing to assume jurisdiction of the case.

SECTION 136. Correction of errors. (1) The clerk shall, on his own motion, correct without delay any error in publication or sample or official ballots which he may discover or which are brought to his attention and which can be corrected without interfering with the timely distribution of the ballots.

(2) Whenever it shall appear by verified petition of a candidate or his agent to the district court that an error or omission has occurred in the publication of the names or description of the candidates, or in the printing of the sample or official ballots, which has not been corrected by the clerk, the court shall issue an order requiring the clerk to forthwith correct such error, or to forthwith show cause why such error should not be corrected. Costs, including a reasonable attorney's fee, may be taxed in the discretion of such court against either party.

(3) Such proceedings may be reviewed and finally adjudicated by the supreme court of the state, if application to such court is made within five days after the termination thereof by the court in

COMMENTS

Based on section 142 of Chapter 39, Session Laws of 1964.

Based on section 144 of Chapter 39, Session Laws of 1964.

which the petition was filed, if the supreme court shall be willing to assume jurisdiction of the case.

(Omitted section numbers have been reserved for expansion.)

ELECTION OFFENSES

SECTION 140. District attorney or attorney general to prosecute. (1) Any person may file with the district attorney an affidavit stating the name of any person who has violated any of the provisions of this act and stating the facts which constitute the alleged offense. Upon the filing of such affidavit, the district attorney shall forthwith investigate, and if reasonable grounds appear therefor, he shall prosecute the same.

(2) The attorney general of the state shall have equal power with district attorneys to file informations or complaints against any persons for violating any provision of this act.

SECTION 141. Sufficiency of complaint -- judicial notice. Irregularities or defects in the mode of calling, giving notice of, convening, holding or conducting any regular or special election shall constitute no defense to a prosecution for a violation of this act. When an offense shall be committed in relation to any municipal election, an indictment, information or complaint for such offense shall be sufficient if it alleges that such election was authorized by law, without stating the call or notice of the election, the names of the judges or clerks holding such election, or the names of the persons voted for at such election. Judicial notice shall be taken of the holding of any regular or special election.

SECTION 142. Immunity of witness from prosecution. Any person so offending against any provision of this act is a competent witness against any other person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation in the same manner as any other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying, except for perjury in giving such testimony. A person so testify-

Based on 49-22-116.

Based on 49-22-117.

Based on 49-22-118.

ing shall not thereafter be liable to indictment, prosecution or punishment for the offense with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly in bar of such indictment or prosecution.

SECTION 143. Penalties for election offenses. In all cases where an offense is denominated by this act as being a misdemeanor and no penalty is specified, the offender, upon conviction thereof, shall be punished by a fine of not to exceed one thousand dollars or by imprisonment in the county jail for not to exceed one year, or by both such fine and imprisonment.

SECTION 144. Payment of fines. All fines collected under the provisions of this act shall be paid to the county in which the municipality concerned is located.

SECTION 145. Perjury. Any person having taken any oath or made any affirmation required by this act, who shall swear or affirm willfully, corruptly, and falsely in a matter material to the issue or point in question, or shall suborn any other person to swear or affirm as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be, and upon conviction thereof shall be punished by confinement in the penitentiary for a term not less than one year nor more than fourteen years.

SECTION 146. Forgery. Any person who shall falsely make, alter, forge, or counterfeit any ballot before or after it has been cast, or who shall forge any name of a person as a signer or witness to a petition or nomination paper, or who shall forge the name of a registered elector to an absent voter's ballot, shall be guilty of forgery and upon conviction thereof shall be punished by confinement in the penitentiary for a term not less than one year nor more than fourteen years.

SECTION 147. Tampering with nomination papers. Any person who, being in possession of nomination papers entitled to be filed under this act, shall wrongfully or willfully destroy, deface, mutilate, suppress, neglect or fail to cause the same to be filed by the proper time in the clerk's office, or who shall file any such paper knowing the same, or any part thereof, to be falsely made, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

Based on 49-22-120.

Based on 49-22-119.

Covering a number of separate provisions in present law, including 49-22-140 and 49-22-152, which have been deleted.

Covering a number of separate sections in present law, including 49-22-129, which has been deleted.

Based on 49-22-127 and 49-22-128.

TEXT

Based on 49-22-130.

SECTION 148. Bribery of petition signers. Any person who shall offer or knowingly permit any person to offer for his benefit any bribe or promise of gain to an elector to induce him to sign any nomination petition or other election paper, or any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after signing, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

Based on 49-22-131.

SECTION 149. Statements of expenses. Within thirty days after each regular election, every candidate, except write-in candidates who are not elected, who was voted for at such election shall file with the municipal clerk an itemized statement showing in detail all the moneys contributed or expended by him in aid of his election. Such statement shall give the names of the various persons who received such money, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit, subscribed and sworn to by such candidate, setting forth, in substance, that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him in aid of his election. Any candidate who refuses or neglects to file the statement above prescribed shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

Based on 49-22-132 and part of 49-22-133.

SECTION 150. Custody and delivery of ballots and other election papers. (1) Any election official having charge of official ballots, tally sheets, the registration book or list and the poll book who shall destroy or conceal or suppress the same, except as expressly permitted by this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

(2) Any election official who has undertaken to deliver the official ballots, tally sheets, the registration book or list and the poll book to the clerk who neglects or refuses to do so within the time prescribed by law, or who fails to account fully for all

TEXT

official ballots and other papers in his charge, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 151. Destroying, removing, or delaying delivery of ballots and other election papers. Any person who shall willfully destroy or deface any ballot or tally sheet or who shall willfully delay the delivery of any ballots, tally sheets, registration book or list, or poll book, or who shall conceal or remove any ballot, ballot box or tally sheet from the polling place, or from the possession of the person or persons authorized by law to have the custody thereof, or who aids, counsels, procures, or assists any person to do any of the aforesaid acts, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 152. Unlawful refusing or permitting to vote. Any election judge who shall willfully and maliciously refuse or neglect to receive the ballot of any qualified registered elector who has taken or offered to take the oath prescribed in section 109 of this act, or shall knowingly and willfully permit any person to vote who is not entitled to vote at any election, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 153. Revealing how elector voted. Any election official or watcher or person who assists a disabled person in voting who shall reveal how a voter has voted shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 154. Violation of duty. Any municipal official, election official, or other person upon whom any duty is imposed by this act who violates, neglects, or omits to perform such duty or is guilty of corrupt conduct in the discharge of the same, or any notary public or other officer authorized by law to administer oaths who shall administer an oath knowing it to be false, or who knowingly makes a false certificate in regard to an election matter shall be guilty of a misdemeanor for each offense and upon conviction thereof shall be punished as provided in section 143 of this act.

COMMENTS

Based in part on 49-22-132 and 49-22-133.

Based on 49-22-134.

Based in part on 49-22-135.

Based on 49-22-137.

TEXT

SECTION 155. Unlawful receipt of money. (1) It shall be unlawful for any person, directly or indirectly, by himself or through any other person:

- (a) To receive, agree or contract for, before or during any municipal election, any money, gift, loan or other valuable consideration for himself or any other person, for voting or agreeing to vote; or for going or agreeing to go to the polls; or for remaining away or agreeing to remain away from the polls; or for refraining or agreeing to refrain from voting for any particular person or measure at any municipal election; or
- (b) To receive any money or other valuable thing during or after any municipal election on account of himself or any other person, for voting or refraining from voting at such election; or on account of himself or any other person, for voting or refraining from voting for any particular person at such election; or on account of himself or any other person, for going to the polls or remaining away from the polls at such election; or on account of having induced any person to vote or refrain from voting for any particular person or measure at such election.

(2) Each offense mentioned in subsection (1) of this section shall be a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 143 of this act.

SECTION 156. Disclosing or identifying vote. Except as provided in section 67 or section 68 of this act, no voter shall show his ballot after it is prepared for voting to any person in such a way as to reveal its contents, and no person shall solicit or induce the voter to do so. No voter shall place any mark upon his ballot by means of which it can be identified as the one voted by him, and no other mark shall be placed upon the ballot to identify it after it has been prepared for voting. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 157. Delivering and receiving ballots at polls. (1) No elector shall receive an official ballot from any person except one of the judges or clerks of election, and no person other than a judge or clerk shall deliver an official ballot to an elector.

COMMENTS

Based on 49-22-138.

References to jobs have been deleted. Note that 49-22-145 has been deleted.

Based on part of 49-22-139.

Based in part on 49-22-139.

IXI

COMMENTS

(2) No person except a judge or clerk of election shall receive from any voter a ballot prepared for voting.

(3) Any elector who does not vote the ballot received by him shall return his ballot to the judge or clerk from whom he received the same before leaving the polling place.

(4) Each violation of the provisions of this section shall be a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 143 of this act.

SECTION 158. Voting twice. If any person shall vote more than once, or, having voted once, shall offer to vote again or shall offer to deposit in the ballot box more than one ballot, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 159. Voting in the wrong precinct. Any person who at any municipal election shall fraudulently vote or offer to vote in any precinct in which he does not reside shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 160. Electioneering near polls. Any person who shall do any electioneering on election day within any polling place or in any public street or room, or in any public manner, within one hundred feet of any building in which a polling place is located shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 161. Employer's unlawful acts. (1) It shall be unlawful for any employer, whether corporation, association, company, firm or person, or any officer or agent of such employer:

(a) to refuse any of his employees the privilege of taking time off to vote as provided in section 62; or

(b) to influence the vote of any employee by force, violence or restraint or by inflicting or threatening to inflict any injury, damage, harm or loss or by discharging from employment or by promoting in employment; or

Based on 49-22-141.

Based on 49-22-122.

Based on 49-22-143.

Based on 49-22-144.

TEXT

(c) in paying his employees the salary or wages due them, to enclose their pay in pay envelopes upon which there are written or printed any political mottoes, devices or arguments, containing threats, expressed or implied, intended or calculated to control the political opinions, views or actions of such employees; or

(d) within ninety days prior to any municipal election to put up or otherwise exhibit in his factory, workshop, mine, mill, office, or other establishment or place where his employees may be working or be present in course of such employment, any handbills, notice or placard containing any threat, notice or information that in case any particular candidate be elected or issue carried, work in his place or establishment will cease in whole or in part, or the wages of his employees be reduced, or containing any other threats, expressed or implied, intended or calculated to control the political opinions or actions of his employees; or

(e) to either expressly or by implication threaten, intimidate, influence, induce or compel any employee to vote or refrain from voting for any particular person or issue in any municipal election or to refrain from voting at any municipal election.

(2) Each offense mentioned in subsection (1) of this section shall be a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 143 of this act.

SECTION 162. Intimidation. It shall be unlawful for any person directly or indirectly, by himself or any other person in his behalf, to make use of any force, violence, restraint, abduction, duress, or any forcible or fraudulent device or contrivance, or to inflict or threaten the infliction of any injury, damage, harm, or loss, or in any manner to practice intimidation upon or against any person in order to impede, prevent, or otherwise interfere with the free exercise of the elective franchise of any elector, or to compel, induce, or prevail upon any elector, either to give or refrain from giving his vote at any municipal election, or to give or refrain from giving his vote for any particular person or measure at any such election. Each such offense shall be a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 143 of this act.

COMMENTS

New section, similar to a provision in the Colorado Election Code of 1963.

TEXT

SECTION 163. Unlawful giving or promising money. (1) It shall be unlawful for any person, directly, by himself, or through any other person:

(a) To pay, loan or contribute, or offer or promise to pay, loan or contribute, any money or other valuable consideration to or for any elector, or to or for any other person, to induce such elector to vote or refrain from voting at any municipal election or to induce any elector to vote or refrain from voting at such election for any particular person or to induce such voter to go to the polls or remain away from the polls at such election, or on account of such elector having voted or refrained from voting for any particular person, or having gone to the polls or remained away from the polls at such election; or

(b) To advance or pay, or cause to be paid, any money or other valuable thing to or for the use of any other person, with the intent that the same, or any part thereof, shall be used in bribery at any municipal election or to knowingly pay or cause to be paid, any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any such election.

(2) Each offense mentioned in subsection (1) of this section shall be a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 143 of this act.

SECTION 164. Corrupt means of influencing vote. If any person by bribery, menace or other corrupt means or device whatsoever, either directly or indirectly, shall attempt to influence any voter of this state, in giving his vote or ballot, or deter him from giving the same, or disturb or hinder him in the free exercise of the right of suffrage at any municipal election in this state, or shall fraudulently or deceitfully change or alter a ballot, every person so offending shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 165. Interference with voter while voting. Any person who shall interfere with any voter when inside the immediate voting area or when marking a ballot or operating a voting machine

COMMENTS

Based on 49-22-146.

Based on section 49-22-147.

Based on 49-22-148.

TEXT

shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 166. Introducing liquor into polls. It shall be unlawful for any person to introduce into any polling place, or to use therein or offer to another for use therein, at any time while any election is in progress or the results thereof are being ascertained by the counting of the ballots, any intoxicating malt, spirituous, or vinous liquors. Each such offense shall be a misdemeanor and upon conviction thereof the offender shall be punished as provided in section 143 of this act.

SECTION 167. Inducing defective ballot. Any person who shall willfully cause a ballot to misstate in any way the wishes of the elector casting the same, or who shall cause any other deceit to be practiced with intent fraudulently to induce such elector to deposit a defective ballot so as to have the ballot thrown out and not counted, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 168. Personating elector. Any person who shall falsely personate any elector and vote under the name of such elector shall be guilty of a misdemeanor for each offense and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 169. Alter posted abstract of votes. Any person who shall deface, mutilate, alter or unlawfully remove the abstract of votes posted outside of a polling place shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 170. Wagers with electors. It shall be unlawful for any person, including any candidate for public office, before or during any municipal election, to make any bet or wager with an elector or take a share or interest in, or in any manner become a party to, any such bet or wager or provide or agree to provide any money to be used by another in making such bet or wager, upon any event or contingency whatever arising out of such election.

COMMENTS

Based on 49-22-149 and 49-22-139.

Based on part of 49-22-147 and 49-22-150.

Based on 49-22-151.

Based on 49-22-153.

Based on 49-22-154.

IXI

COMMENTS

For each such offense, the offender shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 171. Tampering with notices or supplies. Any person who, prior to a municipal election, shall willfully deface, remove, or destroy any notice of election posted in accordance with the provisions of this act, or who, during an election, shall willfully deface, remove or destroy any card of instruction or sample ballot posted for the instruction of voters, or who, during an election, shall willfully remove or destroy any of the supplies or conveniences furnished to enable a voter to prepare his ballot, shall be guilty of a misdemeanor for each offense and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 172. Tampering with registration book, registration list, or poll book. Any person who shall mutilate or erase any name, figure, or word on any registration book, registration list, or poll book, or who shall remove such registration book, registration list, or poll book or any part thereof from the place where it has been deposited, with an intention to destroy the same, or to procure or prevent the election of any person, or to prevent any elector from voting, or who shall destroy any registration book or poll book or part thereof, shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 173. Tampering with voting machine. Any person who shall tamper with a voting machine before, during or after any municipal election with intent to change the tabulation of votes thereon to reflect other than an accurate accounting shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 174. Interference with election official. Any person who at any municipal election shall intentionally interfere with any election official in the discharge of his duty, or who shall induce any election official to violate or refuse to comply with his duty, or who shall aid, counsel, procure, advise, or assist any

Based on 49-22-155.

New provision, based in part on 49-22-133.

Based on part of 49-22-92(4).

Based on 49-22-157.

Provision on interference with watchers has been deleted.

TEXT

COMMENTS

person to do so shall be guilty of a misdemeanor for each offense and upon conviction thereof shall be punished as provided in section 143 of this act.

SECTION 175. Unlawful qualification as taxpaying elector. It shall be unlawful to take or place title to property in the name of another, or to pay the taxes, or to take or issue a tax receipt in the name of another for the purpose of attempting to qualify such person as a "taxpaying elector" or as a "qualified taxpaying elector" or to aid or assist any person to do so. The ballot of any such person violating this section shall be void. Each person violating any of the provisions of this section shall be guilty of a misdemeanor for each offense and upon conviction thereof shall be punished as provided in section 143 of this act.

Based on 49-22-158.

SECTION 176. Absentee voting. Any election official or other person who knowingly violates any of the provisions of this act relative to the casting of absent voters' ballots, or who aids or abets fraud in connection with any absent vote cast or to be cast, shall be guilty of a misdemeanor for each offense and upon conviction thereof shall be punished as provided in section 143 of this act.

Based on 49-22-159.

(Omitted section numbers have been reserved for expansion.)

SECTION 180. Act to be liberally construed. This act shall be liberally construed so that all legally qualified and registered electors may be permitted to vote and so that fraud and corruption in municipal elections may be prevented.

Based on 49-22-34.

SECTION 181. Applicability. (1) This act shall apply to regular and special municipal elections as defined in section 2 of this act.

Based on part of 49-22-3.

(2) This act shall not apply to cities or counties and counties having home rule; provided, that any such city or county may adopt all or any part of this act by reference.

IXI

SECTION 182. Repeal. Article 22 of chapter 49, Colorado Revised Statutes 1963, as amended, is hereby repealed.

SECTION 183. Severability. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 184. Effective date. This act shall take effect on July 1, 1965.

SECTION 185. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

TEXT

**BILL B -- AMENDMENTS TO MISCELLANEOUS
MUNICIPAL ELECTION LAWS**

**A BILL FOR AN ACT
CONCERNING MUNICIPAL CORPORATIONS AND AMENDING THE LAWS APPLICABLE
THERE TO.**

Be It Enacted by the General Assembly of the State of Colorado:

SECTION 1. 139-1-2, Colorado Revised Statutes 1963, and the amendment thereto enacted by section 317 of chapter 39, Session Laws of Colorado 1964, is hereby amended to read:

139-1-2. Petition to district court. When the inhabitants of any part of any county not embraced within the limits of any city or incorporated town shall desire to be organized into a city or incorporated town, they may apply by petition in writing, signed by not less than seventy-five of the qualified electors who are land-owners of the territory to be embraced in the proposed city or incorporated town, to the district court of the proper county. Such petition shall describe the territory proposed to be embraced in such city or incorporated town, and shall have annexed thereto an accurate map or plat thereof, shall state the name proposed for such city or incorporated town, and shall be accompanied with satisfactory proofs of the number of inhabitants within the territory embraced in said limits. AT THE TIME OF FILING SAID PETITION, THE PETITIONERS SHALL FILE A BOND, IN AN AMOUNT TO BE DETERMINED AND APPROVED BY THE COURT, TO COVER THE EXPENSES CONNECTED WITH THE PROCEEDINGS IN CASE THE INCORPORATION IS NOT EFFECTED. In no case shall there be incorporated in such city or incorporated town any undivided tract of land consisting of forty or more acres lying within the proposed limits of such city or town, without the consent of the owners thereof, unless such land be surrounded on at least three sides by platted land. If the territory to be embraced in the proposed city or incorporated town is situate in a county of twenty-five thousand inhabitants or less, forty qualified

COMMENTS

This bill is intended to replace present section 49-22-160, concerning the applicability and non-applicability of the municipal election law to various types of elections.

This section concerns incorporation petitions. The proposed additional sentence would provide for a bond to cover expenses of an unsuccessful incorporation election. The present provision, found in 139-1-5(7), has been declared unconstitutional. It states that the costs must be paid by the county in which the election is held. See section 3 of this bill for repeal of that provision.

TEXT

electors and WHO ARE landowners may petition to organize into a city or incorporated town in the manner provided.

SECTION 2. 139-1-3, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-1-3. Incorporation -- election. (1) When such petition shall be presented, the court shall forthwith appoint not less than five nor more than nine commissioners who shall be qualified registered electors residing within the territory embraced within said limits as described and platted. The commissioners shall hold a meeting within ten days after their appointment, and shall elect a chairman and such other officers as they may determine advisable to assist in the performance of their duties. A majority of the commissioners appointed shall constitute a quorum at any meeting for the purpose of carrying out their legal duties. Such commissioners shall within ten days following their appointment call an election of all the qualified registered electors residing within the territory embraced within said limits as described and platted.

(2) The commissioners shall establish one or more precincts within said limits and shall designate one polling place for each precinct. The precincts shall consist of one or more whole general election precincts wherever practicable. The chairman shall forthwith certify the precinct boundaries to the county clerk of the county in which such territory is located. The county clerk shall prepare a registration list for each precinct, in the manner provided in the "Colorado Municipal Election Code of 1965."

(3) Registration and changes of address can be made with the county clerk up to and including the twentieth day prior to the election. The county clerk may, in his discretion, conduct registration within the proposed corporate limits from time to time up to and including such twentieth day prior to the election.

(4) The notice of such an election shall be given by publication at least once per week for three successive weeks in some newspaper published within said limits and by posting notice for at least three weeks prior to the election date in five public places

COMMENTS

This section provides for election on the question of incorporating. Requirements for precincts and registration are added. Registration deadline would be the 20th day before the election. The election would be conducted by the commissioners in accordance with the Municipal Election Code.

TEXT

COMMENTS

within said limits. If there be no newspaper published within said limits, then such notice shall be given by posting notice in eight public places within the same. Such notice shall specify the date of said election and the hours during which the polls will be open, the precinct boundaries and the polling place for each precinct, the qualifications for persons to vote in the election, the description of the limits of the proposed town or city, and shall state that the description and plat thereof are on file in the office of the clerk of the district court.

(5) The commissioners shall conduct the election in conformity with the provisions of the "Colorado Municipal Election Code of 1965" insofar as applicable. The commissioners shall act as judges and clerks of the election, and the chairman may appoint such additional judges and clerks as he may deem necessary. The commissioners shall report the results of the election to the court within three days following the election. The ballots or voting machine tabs used at said election shall be "For Incorporation" and "Against Incorporation".

SECTION 3. 139-1-5 (1), (2), (3), (4), (5), and (7), Colorado Revised Statutes 1963, and the amendments thereto enacted by section 318 of chapter 39, Session Laws of Colorado 1964, are hereby amended to read:

139-1-5. First election of officers. (1) After the filing of the record in the proper offices by the clerk of the court, the commissioners mentioned in section 139-1-3 in second-class cities shall by resolution divide the city into wards in accordance with the provisions of section 139-14-4, and the commissioners may, in the case of incorporated towns, similarly divide such incorporated towns into wards. EACH WARD SHALL CONTAIN AT LEAST ONE PRECINCT, AND NO PRECINCT OR PART THEREOF SHALL BE LOCATED WITHIN MORE THAN ONE WARD. PRECINCT BOUNDARIES SHALL BE THE SAME AS THOSE ESTABLISHED PURSUANT TO SECTION 139-1-3. Said resolution shall be filed with the clerk of the district court; provided, the first city council or board of trustees shall have authority by ordinance to change the boundaries and number of wards prior to the next regular election of officers, but thereafter such boundaries and number of

This section concerns the first election of officers following the incorporation election. Registration deadline would be changed to the 20th day preceding the election. Precincts would be the same as those used for the incorporation election.

TEXT

COMMENTS

wards shall be changed only by unanimous vote of the council or board of trustees approved by the mayor.

(2)(a) The commissioners by their chairman shall then give notice, for ~~two~~ FOUR consecutive weeks of the holding of the first election of officers, which notice shall contain the following information:

(b) The time when the election will be held and the PRECINCT BOUNDARIES AND location of the polling place ~~ex-places~~ FOR EACH PRECINCT.

(c) A description of the boundaries of the wards, if there be wards.

(d) The officers then to be elected.

(e) The fact that candidates for office may be nominated and their names placed on the ballot in accordance with the petition requirements set out in ~~sections-49-22-7-and-49-22-8, General-Revised-Statutes-1963,~~ THE "COLORADO MUNICIPAL ELECTION CODE OF 1965". ~~The-time-requirements-referred-to-in-these-sections-shall not-govern-in-the-elections-provided-for-in-this-article.~~

(f) The last date on which nomination petitions may be filed.

(g) The last date registration and change of addresses can be made with the county clerk.

(h) THE QUALIFICATIONS FOR PERSONS TO VOTE IN THE ELECTION.

(3) Registration and changes of addresses can be made with the county clerk in the county clerk's office up to and including the ~~last~~ TWENTIETH day ~~said-officer-is-open~~ prior to election day. The county clerk shall have authority in his sole discretion from time to time ~~priez-to-the-inexporation-election,~~ ~~and-also~~ UP TO AND INCLUDING THE TWENTIETH DAY prior to the election of officers as herein provided to conduct registration within the proposed corporate limits. Each nomination petition shall be filed with the

clerk of the district court. Nominating petitions made in accordance with sections 49-22-7 and 49-22-8, Colorado Revised Statutes 1963, THE "COLORADO MUNICIPAL ELECTION CODE OF 1965" may be circulated and signed not more than thirty FORTY-FIVE days prior to the day of election, and shall be filed not less than fifteen TWENTY-FIVE days prior thereto.

(4) The commissioners by their chairman, shall cause a list of the candidates to be published in accordance with the requirements of sections 49-22-11 and 49-22-12, Colorado Revised Statutes 1963; provided, the chairman of the election commissioners shall perform all the functions set out in these sections for the clerk AT LEAST TEN DAYS BEFORE THE ELECTION, IN NOT LESS THAN ONE NOR MORE THAN TWO NEWSPAPERS HAVING GENERAL CIRCULATION WITHIN THE MUNICIPALITY. Vacancies in nominations shall be filled as provided for in section 49-22-15, Colorado Revised Statutes 1963, THE "COLORADO MUNICIPAL ELECTION CODE OF 1965".

(5) At such election the qualified REGISTERED electors of such city or town residing within the limits of such city or town shall choose officers therefor, to hold offices until the first regular election of officers. Said THE commissioners shall act as judges and clerks of the election; provided, the chairman may appoint such additional JUDGES AND clerks as may be deemed necessary for the proper conduct of the election. otherwise, The election shall be conducted BY THE COMMISSIONERS in the manner prescribed by law THE "COLORADO MUNICIPAL ELECTION CODE OF 1965" for regular municipal elections, INsofar AS APPLICABLE.

(7) All costs and expenses connected with such incorporation proceedings, including all election expenses and fees for necessary legal expenses shall be paid by the city council or board of trustees of the newly incorporated municipality within one year from date of incorporation. provided, that where incorporation fails, such costs shall be borne by the county where in such election is held.

SECTION 4. 139-3-1, Colorado Revised Statutes 1963, is hereby amended to read:

COMMENTS

This section concerns mayors in first class cities. The mayor would have to be a twelve-month resident of the city. The election would be conducted under the Municipal Election Code.

TEXT

139-3-1. Mayor -- election -- powers -- duties -- term. (1) The qualified REGISTERED electors in cities of the first class shall elect a mayor biennially, in the odd-year, AT THE REGULAR ELECTION HELD on the first Tuesday in April OF EACH ODD-NUMBERED YEAR. SUCH ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO MUNICIPAL ELECTION CODE OF 1965". THE MAYOR SHALL BE ELECTED for the period of two years and until his successor is elected and qualified. In all cases of the organization of cities of the first class in even years the mayor shall be elected to hold such office only until his successor shall be elected and qualified in the next succeeding year. The mayor shall be a qualified voter ELECTOR WHO HAS RESIDED in such city at the time of his election FOR A PERIOD OF AT LEAST TWELVE CONSECUTIVE MONTHS IMMEDIATELY PRECEDING THE DATE OF THE ELECTION; PROVIDED, THAT IN CASE OF ANNEXATION, ANY PERSON WHO HAS RESIDED WITHIN THE ANNEXED TERRITORY FOR THE TIME PRESCRIBED SHALL BE DEEMED TO HAVE MET THE RESIDENCE REQUIREMENTS FOR THE CITY TO WHICH THE TERRITORY WAS ANNEXED.

(2) He THE MAYOR shall take care that the laws of the state and the ordinances of the city are enforced within the city, and may remit fines, costs, forfeitures and penalties, imposed for the violation of any ordinance, but shall make a report of such remissions to the city council at its next meeting thereafter, with his reasons therefor. He shall have power to appoint experts to examine the affairs of any officer or department or departments of the city whenever he shall deem it necessary. He may require any officer of the city, whenever he may deem it necessary, to exhibit his books and papers, and a refusal by such officer, when so required to exhibit the books and papers of his office, shall be deemed a cause for the forfeiture of said office. In case of emergency, the mayor may appoint as many special watchmen as he may think proper, but such appointments shall be reported to and be subject to the action of the city council at its next meeting. The mayor or council shall have power to discharge such special watchmen whenever in his or their opinion their services are no longer needed. All contracts, bonds or other instruments requiring the assent of the city shall be signed by the mayor or acting mayor, and all legal process against the city shall be served upon the mayor or acting mayor. The mayor shall have a casting vote in all cases of a tie in the council,

except upon the passage of an ordinance or resolution or order involving the expenditure of money. In all cases of the examination of charges against any officer or employee of the city, the mayor or acting mayor shall preside and shall have power to administer oaths and to subpoena and compel the attendance of witnesses and the production of books and papers. Upon refusal of any witness to attend and testify or produce documentary evidence, the mayor or acting mayor may apply to the district court for an order to enforce such attendance or production. Failure to obey the same shall be punishable as a contempt of court.

SECTION 5. 139-3-8, Colorado Revised Statutes 1963, is hereby amended to read:

139-3-8. Aldermen. The qualified REGISTERED electors of each ward IN CITIES OF THE FIRST CLASS shall hereafter elect, BY A PLURALITY OF VOTES, ONE ALDERMAN OR MEMBER OF THE CITY COUNCIL AT THE REGULAR ELECTION HELD IN CITIES OF THE FIRST CLASS, on the first Tuesday of April of each odd-numbered year. by plurality of votes, one alderman or member of the city council for each ward, who SUCH ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO MUNICIPAL ELECTION CODE OF 1965". EACH ALDERMAN OR MEMBER OF THE CITY COUNCIL shall at the time be a resident of said ward, and HAVE RESIDED IN THE WARD IN WHICH HE IS A CANDIDATE FOR A PERIOD OF AT LEAST TWELVE CONSECUTIVE MONTHS IMMEDIATELY PRECEDING THE DATE OF THE ELECTION AND SHALL BE a qualified elector therein; PROVIDED, THAT IN CASE THE BOUNDARIES OF THE WARD ARE CHANGED PURSUANT TO SECTION 139-1-5 OR 139-14-4 OR AS A RESULT OF ANNEXATION, ANY PERSON WHO HAS RESIDED WITHIN TERRITORY ADDED TO THE WARD FOR THE TIME PRESCRIBED SHALL BE DEEMED TO HAVE MET THE RESIDENCE REQUIREMENT FOR THE WARD TO WHICH THE TERRITORY WAS ADDED. His term of service shall be two years. If any vacancy shall occur in the office of alderman by death, resignation, removal, or otherwise, the council, by a MAJORITY vote, of a majority of the council elect, may fill the vacancy by appointment. of some qualified elector resident of the ward in which such vacancy occurs Each alderman shall receive as compensation for his services a sum of not more than six hundred dollars per annum, the amount of such compensation to be fixed by ordinance, payable monthly or quarterly. Each

This section concerns aldermen or council members in first class cities. One-year residence in the ward would be required.

alderman shall forfeit the sum of six dollars for each meeting of the council, regular or special, which he shall fail to attend, and the same shall be deducted from his salary.

SECTION 6. 139-4-1, Colorado Revised Statutes 1963, is hereby amended to read:

139-4-1. Election of officers -- terms -- appointments. (1) The qualified REGISTERED electors of ~~the cities~~ EACH CITY of the second class, not under charter, shall elect, AT THE REGULAR ELECTION HELD on the first Tuesday in November of ~~the year 1947, and every two years thereafter,~~ EACH ODD-NUMBERED YEAR, a mayor, a city clerk and a city treasurer, from the city at large. ~~and on the same date AT THE SAME ELECTION~~ the qualified REGISTERED electors of each ~~of the several wards~~ WARD of such cities CITY shall elect two aldermen. ~~from each of the several wards, who~~ SUCH ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO MUNICIPAL ELECTION CODE OF 1965". SUCH OFFICERS shall hold their respective offices for the term of two years, commencing on the first Monday after the first Tuesday in January following their election.

This section concerns the officers of second class cities.

(2) Such mayor and aldermen shall constitute the city council, and upon taking office shall proceed to the election and appointment of the following officers: One city attorney, one health commissioner, one city engineer, one city supervisor of streets, one superintendent of water, one superintendent of sewers, one city marshal who shall be chief of police, and such number of policemen as in their judgment may be necessary to the peace and good order of the city, and such other officers as may be required by statute or ordinance, and may also appoint one police magistrate. On the election of such officers, the mayor may vote only in the case of a tie. One person may hold two or more of such appointive offices if compatible with the interest of the city government. Each and every such officer shall be subject to the control and orders of the mayor and may be removed by a majority vote of the council on charges of incompetence, unfitness, neglect of duty, or insubordination, duly made and sustained.

SECTION 7. 139-4-4, Colorado Revised Statutes 1963, is hereby amended to read:

This section concerns the office of alderman in second

TEXT

139-4-4. Aldermen -- residence -- vacancies. Each alderman shall be a resident of his ward, and HAVE RESIDED IN THE WARD IN WHICH HE IS A CANDIDATE FOR A PERIOD OF AT LEAST TWELVE CONSECUTIVE MONTHS IMMEDIATELY PRECEDING THE DATE OF THE ELECTION AND SHALL BE a qualified elector therein; PROVIDED, THAT IN CASE THE BOUNDARIES OF THE WARD ARE CHANGED PURSUANT TO SECTION 139-1-5 OR 139-14-4 OR AS A RESULT OF ANNEXATION, ANY PERSON WHO HAS RESIDED WITHIN TERRITORY ADDED TO THE WARD FOR THE TIME PRESCRIBED SHALL BE DEEMED TO HAVE MET THE RESIDENCE REQUIREMENTS FOR THE WARD TO WHICH THE TERRITORY WAS ADDED. If any alderman shall remove from, or become, during the term of his office, a nonresident of the ward in which he was elected, he shall be deemed thereby to vacate his office, EFFECTIVE upon the adoption by the city council of a resolution declaring such vacancy to exist. If any vacancy shall occur in the office of alderman by death, resignation, removal or otherwise, the same shall be filled by appointment by a majority vote of the council, and such appointee shall hold his office only until the next REGULAR municipal election, when such vacancy shall be filled by election as in other cases.

SECTION 8. 139-5-2, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-5-2. Petition -- election. (1) Upon petition of electors equal in number to fifteen percent of the votes cast for all candidates for mayor at the last preceding regular city election, the city council shall order an election on the question of adopting the city council-city manager form of government. The order shall be made within four calendar months after the petition is filed, by proper ordinance which may be passed at any regular or special meeting called for the purpose. The question of adopting such form of government shall be submitted to the qualified registered electors of the municipality at a special or regular election to be conducted in accordance with the provisions of the "Colorado Municipal Election Code of 1965".

(2) The mayor, or, in case of the disability of the mayor, the presiding officer of the council, immediately following the effective date of such ordinance, shall issue a proclamation

COMMENTS

class cities. Residence in the ward for one year would be required.

This section concerns the election on the adoption of the council-manager form of government. The election would be conducted under the provisions of the Municipal Election Code.

giving notice of such election and of the time and place thereof and of the question to be voted upon, which proclamation shall be published at least once a week for four successive weeks in some newspaper published in such city, and if there be none published therein then such proclamation shall be published by posting a copy thereof in five public places within the corporate limits of such city.

(3) The question to be submitted at such special or regular election shall be: "Shall the City of _____ reorganize by adopting the City Council-City Manager form of government as provided in article 5, chapter 139, C.R.S. 1963?" The form of ballot or voting machine tabs shall be: "For City Council-City Manager Form" and "Against City Council-City Manager Form".

SECTION 9. 139-5-5, Colorado Revised Statutes 1963, is hereby amended to read:

139-5-5. Council members -- vacancies. (1) The corporate authority of municipalities organized under this article shall be vested in the council members nominated and elected, two from each ward and one from the city at large, for a term of two years. Members of the council shall be qualified electors of the city ~~from~~ WHO HAVE RESIDED IN their respective wards FOR A PERIOD OF AT LEAST TWELVE CONSECUTIVE MONTHS IMMEDIATELY PRECEDING THE ELECTION; PROVIDED, THAT IN CASE THE BOUNDARIES OF THE WARD ARE CHANGED PURSUANT TO SECTION 139-1-5 OR 139-14-4 OR AS A RESULT OF ANNEXATION, ANY PERSON WHO HAS RESIDED WITHIN TERRITORY ADDED TO THE WARD FOR THE TIME PRESCRIBED SHALL BE DEEMED TO HAVE MET THE RESIDENCE REQUIREMENTS FOR THE WARD TO WHICH THE TERRITORY WAS ADDED.

(2) If a vacancy occurs in the council, the remaining council members shall within thirty days after such vacancy occurs, choose a person possessed of all statutory qualifications to fill such vacancy until his successor, elected at the next regular city election, has qualified.

SECTION 10. 139-5-6, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

This section concerns council members under the council-manager form. Twelve-month residence in the ward would be required.

This section concerns councilmen under the council-manager form. Detail concerning nomination

139-5-6. Councilmen -- nomination -- election -- compensation.
(1) The nomination and election of candidates for the council provided for by this article shall be in accordance with the "Colorado Municipal Election Code of 1965".

petitions is replaced with reference to the Municipal Election Code.

(2) The members of the council shall receive such compensation as may be fixed by ordinance.

SECTION 11. 139-5-20, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

This is the election on abandoning the council-manager form. The election would be conducted in accordance with the Municipal Election Code.

139-5-20. Abandonment of form of government. (1) After the form of government provided for in this article shall have been in operation in any city for a period of six years from the date of its adoption, a petition may be presented to the council of such city, requesting an election on the question of abandoning the city council-city manager form of government. Such petition shall be signed by qualified electors of the municipality equal in number to ten per cent of the votes cast for all candidates for the office of councilman-at-large at the last preceding regular election. Upon presentation of such petition, the council, at its next regular meeting or a special meeting called for that purpose, by proper ordinance, shall order the submission of the question to the qualified registered electors of the municipality at a special or regular election to be conducted in accordance with the provisions of the "Colorado Municipal Election Code of 1965".

(2) The mayor, or, in case of his disability, the presiding officer of the council, shall at once issue a proclamation giving notice of such election and the time and place thereof and of the question to be voted upon, which proclamation shall be published at least once a week for four successive weeks in some newspaper published in such city, and if there be none published therein, in five public places within the corporate limits of such city.

(3) The question to be submitted at such special or regular election shall be: "Shall the City of _____ abandon the City Council-City Manager plan?" The form of ballot or voting machine tabs shall be: "For Abandonment of the Council-Manager Form" and

TEXT

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"Against Abandonment of the Council-Manger Form".

(4) If a majority of the votes cast at such election are in favor of abandoning the council-manager form and resuming the old form of government, the proposition shall be carried. If a majority of the votes cast at such election are opposed to abandoning the council-manager form and resuming the old form of government, the question shall not again be voted upon in the municipality for two years.

SECTION 12. 139-5-21, Colorado Revised Statutes 1963, is hereby amended to read:

139-5-21. Effective date of change. If the proposition shall be carried, the government existing at the time of such election shall nevertheless remain unchanged and unaffected until the next regular election of municipal officers is held and the votes thereof canvassed, the result declared, and the officers so elected have taken office and qualified. The next regular election of officers shall be held in conformity with laws of the state of Colorado applicable to the resumed form of municipal government. ~~except that the return of said election shall be made, the votes canvassed and the result declared as in municipal elections under the city manager form of government as provided in this article.~~ Nothing in this section shall prevent any publicly elected officer under the city council-city manager form of government from completing the term of office for which he was elected. Upon the taking of office of the new officers and their qualification, the city council-city manager form of government shall cease. The government of the municipality shall thereafter be conducted in all respects in conformity with the laws of the state of Colorado applicable thereto, exclusive of the provisions of this article.

SECTION 13. 139-6-1 (1) and (2), Colorado Revised Statutes 1963, are hereby amended to read:

139-6-1. Mayor -- board of trustees -- election -- compensation. (1) The corporate authority of incorporated towns organized for general purposes, shall be vested in a board of trustees, consisting of one mayor and six trustees, who shall be qualified

This section concerns the time the abandonment of the council-manager form takes effect.

These subsections concern the organizational structure of incorporated towns.

TEXT

COMMENTS

electors residing WHO HAVE RESIDED within the limits of the corporation FOR A PERIOD OF AT LEAST TWELVE CONSECUTIVE MONTHS IMMEDIATELY PRECEDING THE DATE OF THE ELECTION; PROVIDED, THAT IN CASE OF ANNEXATION, ANY PERSON WHO HAS RESIDED WITHIN THE ANNEXED TERRITORY FOR THE TIME PRESCRIBED SHALL BE DEEMED TO HAVE MET THE RESIDENCE REQUIREMENTS FOR THE TOWN TO WHICH THE TERRITORY WAS ANNEXED. ~~and shall hold their offices for terms as provided in this section.~~

(2) At the REGULAR municipal election HELD on the first Tuesday in April OF EACH EVEN-NUMBERED YEAR, ~~in the year 1930, and on the first Tuesday of April every two years thereafter,~~ there shall be elected a mayor for the term of two years, and six trustees for the term of two years. SUCH ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO MUNICIPAL ELECTION CODE OF 1965".

SECTION 14. 139-7-2, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-7-2. Petition -- election -- judges. Upon the petition of qualified electors of any such town or city, equal in number to ten per cent of the votes cast for all candidates for mayor at the last preceding regular election, the council or trustees thereof shall immediately order a special election on the question of organizing under this chapter. Such question shall be submitted to the qualified registered electors of the city or town at a special election to be held on the date set by the council or trustees and conducted in accordance with the provisions of the "Colorado Municipal Election Code of 1965", insofar as possible.

SECTION 15. 139-7-4, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-7-4. Ballot. The form of ballot or voting machine tabs at such election shall be: "For Municipal Organization Under the General Law" and "Against Municipal Organization Under the General Law".

This section concerns election on abandoning special charter organization in favor of organization under the general law.

This refers to the same election as the above section. The election would be conducted in accordance with the Municipal Election Code.

TEXT

COMMENTS

SECTION 16. 139-7-5, Colorado Revised Statutes 1963, is hereby amended to read:

139-7-5. Election of officers -- terms. If a majority of the votes cast at such election be in favor of organization under this chapter, the council or trustees shall immediately call a special election for the election of officers for such corporation, according to its class, as defined by this chapter. SUCH ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO MUNICIPAL ELECTION CODE OF 1965". After the election and qualification of such officers the former organization of such city or town shall be considered as abandoned, and such city or town shall be considered as organized, and shall have all the rights and be subject to all the liabilities of the class to which it belongs. The officers so elected shall hold their offices only until the next REGULAR municipal election in such city or town.

SECTION 17. 139-8-2, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-8-2. Election -- notice -- ballot -- class of consolidated city. (1) In case the ordinance of approval is passed by such council or board of trustees less than one hundred twenty days and more than thirty days prior to the regular election in such city or town, the submission to the electors shall be at such regular election; otherwise the council or board of trustees, in the ordinance of approval, shall order a special election, to be held not less than thirty nor more than forty days from that date, for the purpose of determining the question of such consolidation. Such election shall be conducted in accordance with the provisions of the "Colorado Municipal Election Code of 1965".

(2) The mayor, or in case there is no mayor, the presiding officer of the council or board of trustees shall issue at once a proclamation, giving notice of such election, and of the terms upon which it is proposed that the consolidation shall take place. The proclamation shall be published at least once a week for four successive weeks in some newspaper published in such city or town; and if there be none published therein, then such proclamation shall

This section concerns the election of officers following abandonment of special charter organization and adoption of organization under the general law. The election would be conducted in accordance with the Municipal Election Code.

This section concerns election on consolidation of contiguous municipalities. The election would be conducted in accordance with the Municipal Election Code.

be published by posting a copy thereof in five public places within the corporate limits of such city or town.

(3) The form of ballot or voting machine tabs at such election shall be: "For Consolidation" and "Against Consolidation". If a majority of the votes cast at such election in each of the cities or towns proposed to be consolidated shall be for consolidation, the proposition shall be carried. If a majority of the votes cast at such election in any of the cities or towns proposed to be consolidated shall be against consolidation, the proposition shall be defeated and such question shall not be submitted again for one year.

(4) If any one or more of the municipalities proposed to be consolidated was a city, the consolidated corporation shall be a city of the highest class to which any of the cities thus consolidated belonged prior to such consolidation.

SECTION 18. 139-8-3, Colorado Revised Statutes 1963, is hereby amended to read:

139-8-3. Election of officers after consolidation. In case the proposition for consolidation is carried in all of said towns or cities, the mayors or presiding officers of the councils or boards of trustees shall at once issue a joint proclamation, giving notice of an election to be held for officers of the consolidated city or town, stating the time and the places of holding such election, and the officers to be chosen thereat. and shall at the same time appoint judges and clerks for said election, and designate polling places for said election, -- If the consolidated corporation is a city, there shall be at least one polling place in each of the wards of said consolidated city, SUCH PROCLAMATION SHALL BE PUBLISHED IN THE SAME MANNER AS THE PROCLAMATION PROVIDED FOR IN SECTION 139-8-2 (2). At said election there shall be chosen a board of trustees, if the consolidated corporation is a town, and if it is a city, there shall be chosen a mayor, and one or two aldermen for each ward of the consolidated city according to its class. There shall be elected in addition such other officers as under the law are or may be elected by the electors in municipalities of the class to which the consolidated corporation belongs. SUCH ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE

This is the election of officers following a vote in favor of consolidation.

"COLORADO MUNICIPAL ELECTION CODE OF 1965" INsofar AS PRACTICABLE, UNDER THE DIRECTION OF THE MUNICIPAL CLERKS AND GOVERNING BODIES OF THE MUNICIPALITIES WHICH WERE CONSOLIDATED.

SECTION 19. 139-8-5, Colorado Revised Statutes 1963, is hereby amended to read:

139-8-5. Time of election. If the proclamation is issued less than thirty ONE HUNDRED TWENTY days, and more than fifteen THIRTY days prior to the regular municipal election, the election shall be held at the time of holding said regular municipal election; otherwise, THE PROCLAMATION SHALL ORDER A SPECIAL ELECTION, TO BE HELD not less than fifteen THIRTY nor more than thirty FORTY days from the date of the issuing of said proclamation. which shall be published, as is provided in section 139-9-2 for the publication of the notice of the election to determine the question of consolidation.

SECTION 20. 139-8-6, Colorado Revised Statutes 1963, is hereby amended to read:

139-8-6. Consolidation complete. The returns of said election shall be made to the mayor, or presiding officers who called the same, and shall be opened by them on the third day after the election, when they shall make out an abstract and ascertain the candidates elected, in all respects as required by law for the canvass of the returns of general elections, and shall in like manner make out a certificate as to each candidate so elected, and cause the same to be delivered to him, or to be left at his place of abode. The members of the council, or board of trustees elected at such election, on the second Monday after the election, shall meet and organize the city council or board of trustees of the consolidated town or city, and from that time the consolidation shall be deemed complete. The consolidated town or city shall thenceforth exist with the same powers and duties and subject to the same regulations as other towns or cities of the class to which it belongs. The towns or cities so consolidated shall then and there be merged in the consolidated corporation, and the terms of office of each and all of the officers of the towns and cities so consolidated shall cease.

This is the same election referred to in the preceding section.

This section concerns procedures following the first election of officers after consolidation.

COMMENTS

This section concerns the annexation of one municipality to another contiguous municipality. The election would follow the Municipal Election Code.

TEXT

SECTION 21. 139-8-13, Colorado Revised Statutes 1963, is hereby amended to read:

139-8-13. Annexing municipalities. (1) When any city or incorporated town shall desire to be annexed to another and contiguous city or incorporated town, the council or trustees of each of such cities or towns shall appoint three commissioners to arrange and report to such council or trustees respectively the terms and conditions on which the proposed annexation can be made. If the council or trustees of each of such cities or towns approve of the terms and conditions proposed they shall so declare, by proper ordinance. Thereupon the council or trustees of each such cities or towns, by ordinance passed at least ~~one-month~~ THIRTY DAYS prior to the ~~general~~ REGULAR election therein or AT LEAST THIRTY DAYS PRIOR TO a special election for that specific purpose, may submit the question of such annexation, upon the terms and conditions so proposed, to the REGISTERED electors of their respective cities or towns. SUCH ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE "COLORADO MUNICIPAL ELECTION CODE OF 1965".

(2) If a majority of the electors of each CITY OR TOWN vote in favor of such annexation the council or trustees of each shall so declare by proper ordinance. A certified copy of the whole proceedings for annexation of the city or town to be annexed shall be filed with the clerk or recorder of the city or town to which the annexation is made and the latter shall file with the secretary of state, and in the recorder's office of the county, a certified copy of all proceedings had by both of such cities or towns in the matter of the annexation.

SECTION 22. 139-9-2, Colorado Revised Statutes 1963 (numbered as 139-10-2, CRS 1953), and the amendment thereto enacted by section 321 of chapter 39, Session Laws of Colorado 1964, are hereby amended to read:

139-9-2. Petition -- order of court. A petition subscribed SIGNED by not less than twenty per cent of the qualified TAXPAYING electors ~~who are taxpayers of and owners in fee of real property in~~ OF such town or twenty-per-cent-of-the-qualified-electors-who-are

This section concerns dissolution and annexation to a special charter city.

taxpayers of and owners in fee of real property in such city existing under general laws, praying for the dissolution of such town or city and the annexation of the same to the city existing under a special charter, may be filed in the office of the clerk of the district court of the county in which the town or city existing under general laws may be situated. The petition shall be accompanied by an affidavit of one or more of the petitioners, showing that the subscribers SIGNERS are QUALIFIED TAXPAYING electors and taxpayers of and owners in fee of real property in OF such town or city, and shall be prima facie evidence of the matters therein set forth. Upon the filing of such petition and upon the consent of the charter city being shown by ordinance published, the district court shall make an order reciting the substance of the petition and requiring the board of trustees GOVERNING BODY of such town or city herein of such city existing under general laws to submit the question of such dissolution and annexation at the next general REGULAR election or at a special election of such town or city, as provided in section 139-9-3, to a vote of such THE qualified REGISTERED TAXPAYING electors THEREOF. of and owners in fee of real property in such town or city as have in the year next preceding paid a property tax therein, which THE order shall be served by delivering a copy thereof to any member of the board of trustees of such town or of the city council of such city and shall be filed in the office of the clerk and recorder of such town or of the city clerk of such city.

SECTION 23. 139-9-3, Colorado Revised Statutes 1963 (numbered as 139-10-3, CRS 1953), and the amendment thereto enacted by section 322 of chapter 39, Session Laws of Colorado 1964, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-9-3. Question submitted to registered taxing electors. The governing body of such town or city shall, by ordinance and within a reasonable time to be fixed by the court in said order, direct that an election be held to submit the question of the dissolution and annexation to a vote of the qualified registered taxing electors. If the order of the district court is served more than thirty days and less than one hundred twenty days prior to the next regular election of such town or city, the question shall be

This is the election on dissolving and annexing to a special charter city. Details concerning the election have been replaced with reference to Municipal Election Code.

TEXT

COMMENTS

submitted to a vote of the qualified registered taxpaying electors at such regular election; otherwise the question shall be submitted at a special election to be called and held for that purpose. Such election shall be conducted in accordance with the provisions of the "Colorado Municipal Election Code of 1965".

SECTION 24. 139-9-4, Colorado Revised Statutes 1963 (numbered as 139-10-4, CRS 1953), and the amendment thereto enacted by section 323 of chapter 39, Session Laws of Colorado 1964, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-9-4. Notice of election. Notice of the submission of the question at a regular or special election shall be given by the municipal clerk in the manner provided in the "Colorado Municipal Election Code of 1965" and shall state the substance of the proposition as submitted by the ordinance. The municipal clerk shall forthwith file in the office of the clerk of the district court a certificate under the seal of such town or city, containing a copy of said notice, and specifying the time when and the places where such notices were posted and the newspapers in which said notices were published; and the same shall be prima facie evidence of the matters therein set forth.

SECTION 25. 139-9-6, Colorado Revised Statutes 1963, is hereby REPEALED AND RE-ENACTED, WITH AMENDMENTS, to read:

139-9-6. Ballots. All ballots or voting machine tabs prepared in pursuance of this article shall contain the propositions "For Annexation" and "Against Annexation". If the question is submitted on paper ballots, such ballots shall be deposited in a separate ballot box used for that purpose only. If the question is submitted on voting machines, provision shall be made to assure that only registered taxpaying electors are permitted to vote on such question.

SECTION 26. 139-9-8 (1) and (2), Colorado Revised Statutes 1963 (numbered as 139-10-8 (1) and (2), CRS 1953), and the amendment thereto enacted by section 324 of chapter 39, Session Laws of Colorado 1964, are hereby amended to read:

Notice for the election referred to above would follow the Municipal Election Code.

This section concerns ballots for the dissolution and annexation election.

TEXT

139-9-8. Report -- approval by court. (1) FOLLOWING THE CANVASS AND CERTIFICATION OF THE RESULTS OF THE ELECTION, ~~it shall be the duty of the MUNICIPAL clerk and recorder of such town, or the city clerk of such city, SHALL forthwith to prepare a report, which shall be signed by the mayor and attested by the MUNICIPAL clerk, and recorder of such town, or the city clerk of such city, under the seal of such town or such city, containing a copy of the ordinance under which the question was submitted, and of the record of the proceedings of the board of trustees of such city, or ascertaining and declaring CERTIFIED STATEMENT AND DETERMINATION OF the result of such vote, and to SHALL file the same in the office of the clerk of the district court.~~

(2) The court shall examine the report and hear any objections and evidence that may be offered concerning the regularity or irregularity of the proceedings. If the court shall find the proceedings irregular, the court shall disapprove said report, and order a new election, in accordance with the provisions of this article. If the court shall find that the proceedings were substantially regular, the court shall approve the report. IF A MAJORITY OF THE VOTES CAST ARE AGAINST ANNEXATION, THE QUESTION SHALL NOT AGAIN BE SUBMITTED AT ANY ELECTION HELD WITHIN ONE YEAR THEREAFTER. If a majority of the votes so cast are for annexation, then, from the approval of such report, such town or city, previously existing under general laws, shall be dissolved, and the territory then included within the boundaries thereof shall be annexed to and become part of the city existing under a special charter. No appeals shall be from judgments of the district court in such proceedings; but writs of error to such judgments shall be as in other civil cases.

SECTION 27. 139-9-9, Colorado Revised Statutes 1963 (numbered as 139-10-9, CRS 1953), and the amendment thereto enacted by section 325 of chapter 39, Session Laws of Colorado 1964, is hereby amended to read:

139-9-9. Termination of offices. If the question so submitted is submitted at a general REGULAR election of such town or city, and it shall appear from the canvass that a majority of the votes cast

COMMENTS

This is still part of the proceedings for dissolution and annexation to a special charter city.

This concerns the question on dissolution and annexation to a special charter city.

at such election upon the question are "For Annexation", then all votes for officers of such town or city, or upon any other question submitted at said election, and all certificates of election issued in pursuance thereof, shall be of no force or effect. If a majority of the votes cast at any election shall be "For Annexation", then upon the approval of said report by the district court, the terms of office of all municipal officers of the town or city annexed shall cease.

Sections 139-9-5, 139-9-7, and 139-9-11 (139-10-11 in section 326 of chapter 39, S.L. 1964) would be repealed. They contain details on the conduct of the dissolution and annexation election.

SECTION 28. 139-10-4 (2), Colorado Revised Statutes 1963 (numbered as 139-11-4 (2), CRS 1953), and the amendment thereto enacted by section 328 of chapter 39, Session Laws of Colorado 1964, is hereby amended to read:

This section concerns annexation of territory to a municipality.

139-10-4. Petition filed -- notice -- counterpetition -- commissioners -- election -- court order. (2) Upon presentation of such petition the court shall examine the same, and if such petition and counterpetition and the notice provided for in this section shall substantially comply with the requirements of sections 139-10-3 and 139-10-4, the court shall appoint five QUALIFIED REGISTERED ELECTORS, RESIDING WITHIN THE TERRITORY PROPOSED TO BE ANNEXED, WHO ARE WILLING TO SERVE AS commissioners. At least two of whom THE COMMISSIONERS shall be nominated by the municipality and two of whom shall represent those opposing the annexation. and all of whom shall be residents of the state of Colorado and willing to serve as such commissioners, and who THE COMMISSIONERS shall within three days of the time of their appointment take an oath before the court to faithfully perform their duties. In case of disability or failure of any commissioner to act, the court shall forthwith fill his place with some person competent, able, and willing to act. THE VACANCY.