

SENATE
FLOOR AMENDMENT

Second Reading SB05-198

Date _____

BY SENATOR Gordon

Amendment No. _____

1 Amend the Local Government Committee Report, dated March 22, 2005,
2 page 1, strike lines 14 through 16 and substitute the following:

3 "STATE, COUNTY, OR MUNICIPAL GOVERNMENT SERVICE ORGANIZATION OR
4 A CERTIFICATE OF REGISTRATION ISSUED BY A COUNTY CLERK AND
5 RECORDER OR THE".

6 Page 2, after line 4, insert the following:

7 "(a) IS AVAILABLE FOR THE ELECTOR TO INSPECT AND VERIFY
8 BEFORE THE VOTE IS CAST;"

9 Reletter succeeding paragraphs accordingly.

10 Page 2, strike lines 7 through 9 and substitute the following:

11 "(c) LISTS THE DESIGNATION OF EACH OFFICE, BALLOT ISSUE, OR
12 BALLOT QUESTION, AND THE ELECTOR'S CHOICES IN SUCH OFFICES, ISSUES,
13 OR QUESTIONS. IF THE";

14 line 26, after "EACH", insert "PRIMARY, GENERAL, COORDINATED, OR
15 CONGRESSIONAL DISTRICT VACANCY".

16 Page 3, line 10, after "EACH", insert "PRIMARY, GENERAL, COORDINATED,
17 OR CONGRESSIONAL DISTRICT VACANCY";

18 line 11, strike "SHALL," and substitute "SHALL HAVE THE OPPORTUNITY

1 TO,";
2 line 20, strike "(2)." and substitute "(2) OR UPON SUCH OTHER SHOWING OF
3 GOOD CAUSE RESULTING FROM A CHANGE IN REQUIREMENTS UNDER
4 FEDERAL OR STATE LAWS OR GUIDELINES.";

5 strike lines 30 through 35 and substitute the following:

6 "AND SHALL CONSTITUTE AN OFFICIAL RECORD OF THE ELECTION.

7 (4) NO VOTING DEVICE SHALL BE REMOTELY ACCESSED OR
8 REMOTELY ACCESSIBLE UNTIL AFTER THE CLOSE OF VOTING AND A
9 RESULTS TOTAL TAPE HAS BEEN PRINTED, AS APPLICABLE.";

10 line 37, strike "SYSTEM" and substitute "DEVICE".

11 Page 4, line 1, strike "SYSTEM" and substitute "DEVICE";

12 strike lines 6 through 38 and substitute the following:

13 **"1-7-509. Random audit.** (1) (a) FOLLOWING EACH PRIMARY,
14 GENERAL, COORDINATED, OR CONGRESSIONAL DISTRICT VACANCY
15 ELECTION, THE SECRETARY OF STATE SHALL PUBLICLY INITIATE A MANUAL
16 RANDOM AUDIT TO BE CONDUCTED BY EACH COUNTY AND SHALL
17 RANDOMLY SELECT NOT LESS THAN ONE PERCENT OF THE VOTING DEVICES
18 USED IN EACH COUNTY; EXCEPT THAT, WHERE A CENTRAL COUNT VOTING
19 DEVICE IS IN USE IN THE COUNTY, THE RULES PROMULGATED BY THE
20 SECRETARY PURSUANT TO SUBSECTION (5) OF THIS SECTION SHALL
21 REQUIRE AN AUDIT OF A SPECIFIED PERCENTAGE OF BALLOTS COUNTED
22 WITHIN THE COUNTY.

23 (I) FOR AN ELECTION TAKING PLACE IN A COUNTY PRIOR TO THE
24 DATE THE COUNTY HAS SATISFIED THE REQUIREMENTS OF SECTION 1-7-310
25 (2), THE AUDIT SHALL BE FOR THE PURPOSE OF COMPARING THE MANUAL
26 TALLIES OF THE BALLOTS COUNTED BY EACH VOTING DEVICE SELECTED
27 FOR EACH SUCH AUDIT WITH THE CORRESPONDING TALLIES RECORDED
28 DIRECTLY BY EACH SUCH DEVICE.

29 (II) FOR AN ELECTION TAKING PLACE IN A COUNTY ON OR AFTER
30 THE DATE THE COUNTY HAS SATISFIED THE REQUIREMENTS OF SECTION
31 1-7-310 (2), THE AUDIT SHALL BE CONDUCTED FOR THE PURPOSE OF
32 COMPARING THE MANUAL TALLIES OF THE VOTER-VERIFIED PAPER

1 RECORDS PRODUCED OR EMPLOYED BY EACH VOTING DEVICE SELECTED
2 FOR SUCH AUDIT WITH THE CORRESPONDING BALLOT TALLIES RECORDED
3 DIRECTLY BY EACH SUCH DEVICE.

4 (b) TO THE EXTENT PRACTICABLE, NO VOTING DEVICE THAT IS USED
5 FOR THE RANDOM AUDIT REQUIRED BY PARAGRAPH (a) OF THIS
6 SUBSECTION (1) SHALL BE USED FOR CONDUCTING THE TESTING OF VOTING
7 DEVICES FOR RECOUNT PURPOSES REQUIRED BY SECTION 1-10.5-102 (3)
8 (a).

9 (2) (a) UPON COMPLETION OF THE AUDIT REQUIRED BY SUBSECTION
10 (1) OF THIS SECTION, IF THERE IS ANY DISCREPANCY BETWEEN THE
11 MANUAL TALLIES, AS SPECIFIED IN ACCORDANCE WITH THE REQUIREMENTS
12 OF SUBPARAGRAPH (I) OR (II) OF PARAGRAPH (a) OF SUBSECTION (1) OF
13 THIS SECTION, AS APPLICABLE, OF THE VOTING DEVICE SELECTED FOR THE
14 AUDIT, AND THE CORRESPONDING TALLIES RECORDED BY SUCH DEVICES,
15 AND THE DISCREPANCY IS NOT ABLE TO BE ACCOUNTED FOR BY VOTER
16 ERROR, THE CANVASS BOARD OF THE COUNTY ESTABLISHED PURSUANT TO
17 SECTION 1-10-101 SHALL INVESTIGATE THE DISCREPANCY AND SHALL
18 TAKE SUCH REMEDIAL ACTION AS NECESSARY IN ACCORDANCE WITH ITS
19 POWERS UNDER THIS TITLE.

20 (b) UPON RECEIVING ANY WRITTEN COMPLAINT FROM A
21 REGISTERED ELECTOR FROM WITHIN THE COUNTY ABOUT A VOTING DEVICE,
22 THE CANVASS BOARD SHALL INVESTIGATE THE COMPLAINT AND TAKE SUCH
23 REMEDIAL ACTION AS NECESSARY IN ACCORDANCE WITH ITS POWERS
24 UNDER THIS TITLE.

25 (c) THE CANVASS BOARD SHALL PROMPTLY REPORT TO THE
26 SECRETARY OF STATE THE RESULTS OF ANY COMPLETED AUDIT OR
27 INVESTIGATION CONDUCTED PURSUANT TO PARAGRAPH (a) OR (b) OF THIS
28 SUBSECTION (2).

29 (3) THE SECRETARY OF STATE SHALL POST THE RESULTS OF ANY
30 COMPLETED AUDIT OR INVESTIGATION CONDUCTED PURSUANT TO THE
31 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION ON THE OFFICIAL
32 WEBSITE OF THE DEPARTMENT OF STATE NOT LATER THAN TWENTY-FOUR
33 HOURS AFTER RECEIVING THE RESULTS OF THE COMPLETED AUDIT OR
34 INVESTIGATION. THE CLERK AND RECORDER OF THE AFFECTED COUNTY
35 MAY TIMELY POST THE RESULTS OF THE COMPLETED AUDIT OR
36 INVESTIGATION ON THE OFFICIAL WEBSITE OF THE COUNTY. THE
37 SECRETARY SHALL PUBLISH ONCE IN A NEWSPAPER OF GENERAL

1 CIRCULATION THROUGHOUT THE STATE NOTIFICATION TO THE PUBLIC THAT
2 THE RESULTS HAVE BEEN POSTED ON THE DEPARTMENT'S WEBSITE.

3 (4) ANY AUDIT CONDUCTED IN ACCORDANCE WITH THE
4 REQUIREMENTS OF THIS SECTION SHALL BE OBSERVED BY AT LEAST ONE
5 MEMBER OF THE CANVASS BOARD OF THE COUNTY.

6 (5) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES, IN
7 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AS MAY BE NECESSARY
8 TO ADMINISTER AND ENFORCE ANY REQUIREMENT OF THIS SECTION,
9 INCLUDING ANY RULES NECESSARY TO PROVIDE GUIDANCE TO THE
10 COUNTIES IN CONDUCTING ANY AUDIT REQUIRED BY THIS SECTION. THE
11 RULES SHALL ACCOUNT FOR:

12 (a) THE NUMBER OF BALLOTS CAST IN THE COUNTY;

13 (b) AN AUDIT OF EACH TYPE OF VOTING DEVICE UTILIZED BY THE
14 COUNTY; AND

15 (c) THE CONFIDENTIALITY OF THE BALLOTS CAST BY THE
16 ELECTORS."

17 Page 5, strike lines 1 through 16;

18 strike lines 33 and 34 and substitute the following:

19 "polling place during this time may cast their ballots. ~~in the same manner~~
20 ~~as any ballot would be cast in a precinct polling place on election day.~~"

21 Page 6, line 30, strike "ANY" and substitute "ONLY";

22 strike lines 34 through 37 and substitute the following:

23 **"1-10.5-102. Recounts for congressional, state, and district**
24 **offices, state ballot questions, and state ballot issues.** (3) (a) Prior to
25 any recount, the canvass board shall choose ~~a precinct~~ at random and ~~a~~
26 ~~test number of ballots on which~~ VOTING DEVICES USED IN THE CANDIDATE
27 RACE, BALLOT ISSUE, OR BALLOT QUESTION THAT IS THE SUBJECT OF THE
28 RECOUNT. THE BOARD SHALL USE THE VOTING DEVICES IT HAS SELECTED
29 to conduct a COMPARISON OF THE machine count ~~and hand count~~ of THE
30 ballots COUNTED ON EACH SUCH VOTING DEVICE FOR THE CANDIDATE
31 RACE, BALLOT ISSUE, OR BALLOT QUESTION TO THE CORRESPONDING

1 MANUAL COUNT OF:

2 (I) IN THE CASE OF AN ELECTION TAKING PLACE IN A COUNTY PRIOR
3 TO THE DATE THE COUNTY HAS SATISFIED THE REQUIREMENTS OF SECTION
4 1-7-310 (2), THE BALLOTS; OR

5 (II) FOR AN ELECTION TAKING PLACE IN A COUNTY ON OR AFTER
6 THE DATE THE COUNTY HAS SATISFIED THE REQUIREMENTS OF SECTION
7 1-7-310 (2), THE VOTER-VERIFIED PAPER RECORDS.

8 (b) ~~The precinct chosen shall have at least fifty ballots for the~~
9 ~~count.~~ If the results of the COMPARISON OF THE machine count and the
10 ~~hand~~ APPLICABLE MANUAL count AS SPECIFIED UNDER PARAGRAPH (a) OF
11 THIS SUBSECTION (3) are identical, OR IF ANY DISCREPANCY IS ABLE TO BE
12 ACCOUNTED FOR BY VOTER ERROR, then the recount ~~shall~~ MAY be
13 conducted in the same manner as the original ballot count. IF THE
14 RESULTS OF THE MACHINE COUNT AND THE MANUAL COUNT AS SPECIFIED
15 IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (a) OF THIS
16 SUBSECTION (3) ARE NOT IDENTICAL, OR IF ANY DISCREPANCY IS NOT ABLE
17 TO BE ACCOUNTED FOR BY VOTER ERROR, A PRESUMPTION SHALL BE
18 CREATED THAT THE VOTER-VERIFIED PAPER RECORDS WILL BE USED FOR
19 A FINAL DETERMINATION UNLESS EVIDENCE EXISTS THAT THE INTEGRITY
20 OF THE VOTER-VERIFIED PAPER RECORDS HAS BEEN IRREVOCABLY
21 COMPROMISED. THE SECRETARY OF STATE SHALL DECIDE, CONSIDERING
22 THE PRESUMPTION, WHICH METHOD OF RECOUNT IS USED IN EACH CASE,
23 BASED ON THE SECRETARY'S DETERMINATION OF WHICH METHOD WILL
24 ENSURE THE MOST ACCURATE COUNT, SUBJECT TO JUDICIAL REVIEW FOR
25 ABUSE OF DISCRETION. NOTHING IN THIS SUBSECTION (3) SHALL BE
26 CONSTRUED TO LIMIT ANY PERSON FROM PURSUING ANY APPLICABLE
27 LEGAL REMEDY OTHERWISE PROVIDED BY LAW.

28 (c) THE SECRETARY OF STATE SHALL PROMULGATE SUCH RULES, IN
29 ACCORDANCE WITH ARTICLE 4 OF TITLE 24, C.R.S., AS MAY BE NECESSARY
30 TO ADMINISTER AND ENFORCE ANY REQUIREMENT OF THIS SECTION,
31 INCLUDING ANY RULES NECESSARY TO PROVIDE GUIDANCE TO THE
32 COUNTIES IN CONDUCTING THE TEST OF VOTING DEVICES FOR THE RECOUNT
33 REQUIRED BY PARAGRAPH (a) OF THIS SUBSECTION (3). THE RULES SHALL
34 ACCOUNT FOR:

35 (I) THE NUMBER OF BALLOTS CAST IN THE CANDIDATE RACE,
36 BALLOT ISSUE, OR BALLOT QUESTION THAT IS THE SUBJECT OF THE
37 RECOUNT;

1 (II) AN AUDIT OF EACH TYPE OF VOTING DEVICE UTILIZED BY THE
2 COUNTY IN THE CANDIDATE RACE, BALLOT ISSUE, OR BALLOT QUESTION
3 THAT IS THE SUBJECT OF THE RECOUNT; AND

4 (III) THE CONFIDENTIALITY OF THE BALLOTS CAST BY THE
5 ELECTORS IN THE CANDIDATE RACE, BALLOT ISSUE, OR BALLOT QUESTION
6 THAT IS THE SUBJECT OF THE RECOUNT."

7 Page 7, strike lines 1 through 33.

8 Renumber succeeding sections accordingly.

9 strike line 34 and substitute the following:

10 "SECTION 8. **Repeal.** 1-10.5-108 and 1-10.5-110, Colorado
11 Revised Statutes, are".

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