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# **SPECIAL DISTRICT ADMINISTRATION & ELECTIONS**

## **FREQUENTLY ASKED QUESTIONS**



**CO L O R A D O**

**Department of Local Affairs**

Division of Local Government

### **SPECIAL DISTRICT ASSISTANCE**

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<b>Subject</b>	<b>Page #</b>
<b>Introduction .....</b>	<b>2</b>
<b>Basics.....</b>	<b>3</b>
<b>Special Section – Odd-year Transition .....</b>	<b>6</b>
<b>Elections Generally .....</b>	<b>11</b>
<b>Notice and Preparation for Elections .....</b>	<b>21</b>
<b>Election Judges.....</b>	<b>27</b>
<b>Conduct of Elections .....</b>	<b>28</b>
<b>Absentee Ballots and Permanent Absentee Voting.....</b>	<b>32</b>
<b>UOCAVA.....</b>	<b>35</b>
<b>Mail Ballot Elections .....</b>	<b>36</b>
<b>Watchers .....</b>	<b>39</b>
<b>Challenges to Voting .....</b>	<b>41</b>
<b>Certificates and Abstracts of Election .....</b>	<b>42</b>
<b>Recounts .....</b>	<b>44</b>
<b>Election Controversies and Contests .....</b>	<b>45</b>
<b>Election Offenses.....</b>	<b>47</b>
<b>Recall Process.....</b>	<b>48</b>
<b>TABOR Related Issues .....</b>	<b>49</b>
<b>E-Filing .....</b>	<b>52</b>

The following document is intended to provide information regarding special districts organized pursuant to Title 32, Article 1, Colorado Revised Statutes (“Special District Act” or “Act”) for both the general public and as a reference for special district Designated Election Officials (**DEOs**). Herein you will also find information regarding special district directors.

These FAQs serve as a supplement to the special district election laws that the Division of Local Government (“DLG”) is required to transmit in accordance with §1-1-108(2), Colorado Revised Statutes (C.R.S.); as part of the *Special District Election Manual* package DLG updates each election cycle. Special districts, DEOs, and the general public have many questions about special district elections conducted under the Colorado Local Government Election Code, Title 1, Article 13.5, C.R.S. (“Election Code”). Special district elections are much different than coordinated elections conducted by the County Clerk and Recorders under the Uniform Election Code of 1992. Therefore, DLG compiles the *Manual* with that in mind.

Portions of these FAQs *may* apply to other types of local governments that are not Title 32-Article 1, special districts or that are directed to use the Local Government Election Code. Use caution in applying any of the information below to the conduct of other local government elections, as this document was not written with other local governments in mind (unless stated otherwise).

The answer to each question in this FAQ document includes a reference to the relevant statutory or constitutional provision, Attorney General opinion, or Secretary of State (SOS) Election Rule. Each entry includes a summary, where applicable, the reference source, and lastly, any pertinent forms. Direct quotes from statute are highlighted in grey background.

The FAQs are categorized according to issues that have arisen over multiple elections. For more general election terminology, consult the ***Elections Quick Glossary***.

The relevant statutes and Article X, Section 20 of the Colorado Constitution (“TABOR”) are found in the **Election Manual** at [dola.colorado.gov/sd-elections](http://dola.colorado.gov/sd-elections) under the “Election Manual” section for that election year. For a full set of the Colorado Revised Statutes go to <http://leg.colorado.gov/> and click on “Laws” to find the most current available version.

The SOS Election & Campaign Political Finance (CPF) Rules are available at the Secretary of State’s website ([www.sos.state.co.us](http://www.sos.state.co.us)).

While DLG makes every effort to ensure that the information in these assistance publications is accurate, users must be certain to use the most current versions of the referenced sources. Links to Department websites outside the Department of Local Affairs (“DOLA”) in particular are outside DOLA’s control, and change frequently. Furthermore, special districts should consult legal counsel concerning the conduct of their elections.

## **BASICS**

### **What are Title 32, Article 1 special districts?**

Special districts are a type of local government in the catalog of local governments found throughout the Colorado Revised Statutes. Other local governments include:

- Title 22 (School Districts)
- Title 24 (Library Districts)
- Title 29 (Various Local Governments)
- Title 30 (Counties)
- Title 31 (Municipalities)
- Title 32 (Special Districts)
- Title 35 (Agriculture/ Conservation Districts)
- Title 37 (Water Conservation/ Irrigation Districts)

This is not a comprehensive list, but each of these local governments are governed differently within their respective governing laws. Each is structured by those laws. For example, a Public Improvement District (Title 30, Article 20, Part 5, C.R.S.) is governed by the County Board of Commissioners. A School District is governed by an elected Board of Directors pursuant to Title 22, Article 31, C.R.S.

**Title 32, Article 1** special districts include the following:

<b>Metropolitan</b>		<b>Fire Protection</b>	
<b>Ambulance</b>	<b>Health Service</b>	<b>Mental Health</b>	
<b>Water</b>	<b>Sanitation</b>	<b>Water &amp; Sanitation</b>	
<b>Park &amp; Recreation</b>	<b>Health Assurance</b>	<b>Tunnel</b>	

Some special districts provide single services, while others provide multiple services. Metropolitan districts must provide at least two (2) of the following services:

- Fire protection;
- Mosquito control;
- Parks and recreation;
- Safety protection;
- Sanitation;
- Solid waste disposal facilities or collection and transportation of solid waste;
- Street improvement;
- Television relay and translation;
- Transportation;
- Water.

C.R.S. § 32-1-103(10)

**What are regular special district elections?**

Regular special district elections are the biennial elections held for the purpose of electing eligible electors to the Board of Directors of the special district. The election is required for all special districts without exception.

A regular election may include the submission of questions to the eligible electors of the special district, including any ballot issue required under TABOR.

A cancelled election counts as having conducted an election; the directors are elected by acclamation.

**When are they?**

Until May **2022**: On the first Tuesday after the first Monday in May of even-numbered years.

Starting May **2023**: On the first Tuesday after the first Monday in May of odd-numbered years.

More information in the next Section!

C.R.S. § 1-13.5-111(1)

**How many directors do special districts have?**

At the time of organization, special districts choose to have either 5 directors or 7 directors. The vast majority have 5 directors.

C.R.S. § 32-1-305, 305.5

**Do special district directors serve staggered terms?**

Yes. Once organized, director terms are immediately staggered and remain so.

- 2 directors serve until the next regular election after organization
- 3 directors serve until the 2<sup>nd</sup> regular election after organization
- From then on, these will always alternate each regular election cycle: 2 directors' terms will expire and the director position will be up for election, then 3, then 2, then 3, for eternity

For special districts with seven (7) Board members, it is the same except 3 directors or 4 directors alternating each regular election cycle for full terms.

C.R.S. § 32-1-305.5

**May a director choose to serve a 2-year term at *any* election?**

No. A 2-year term only occurs when a vacancy exists on the special district Board for a term of office that would not otherwise expire until after the next regular election and a director is appointed to fill the vacancy.

Appointees only serve until the next regular election, at which time the term of office to be filled would be a partial term (2 years) until the following regular election at which the term would otherwise expire, so that the staggering of terms is not interrupted.

*\*\*\*Note that in 2022 a 1-year term may be available in this circumstance.*

C.R.S. § 32-1-902(2)(a)

### **Can a district increase directors from 5 to 7?**

Yes. There are two ways this may happen. One is during the **consolidation** process. The other is much simpler but irreversible: A board may increase from 5 directors to 7 via resolution, provided the service plan-approving authority (county or municipality) does not consider the change a material modification to the service plan. A court order makes it official.

Subsequently, one director is added at each of the next two elections. But your district better be VERY sure it wants to do this because...

C.R.S. § 32-1-602(2)(a), 32-1-902.5(1-2)

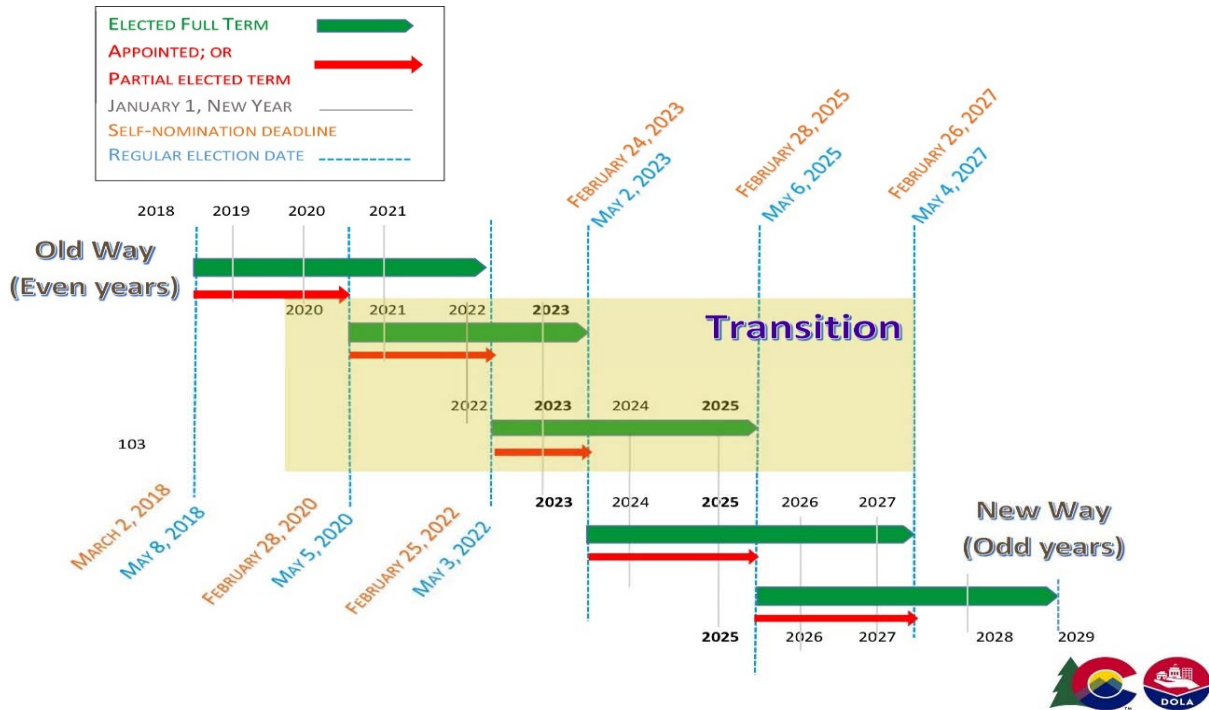
### **Can a district go from 7 to 5 directors?**

No. Not outside the consolidation process. In fact, it is specifically stated that districts using the resolution/court order route (described above) cannot then go from seven directors to five.

C.R.S. § 32-1-902.5(3)

# **SPECIAL SECTION: 3 YEAR TERMS!!!**

## **2020-2023 TRANSITION TO ODD-YEAR ELECTIONS BEGINS NOW**



**What is the term of office for a special district Board member?**

The basic term of office is four years. Unless the term to be filled is a 2-year term as described above.

C.R.S. § 32-1-305.5(3); 32-1-905(2)(a)

In the years 2020 and 2022, directors will be elected to **three year terms**, which in those cases will constitute a full term. Directors appointed after the 2022 election will only serve until the 2023 election; other than that, appointments will remain two years or less.

**How are vacancies filled by the remaining Board of directors, and how long is their term?**

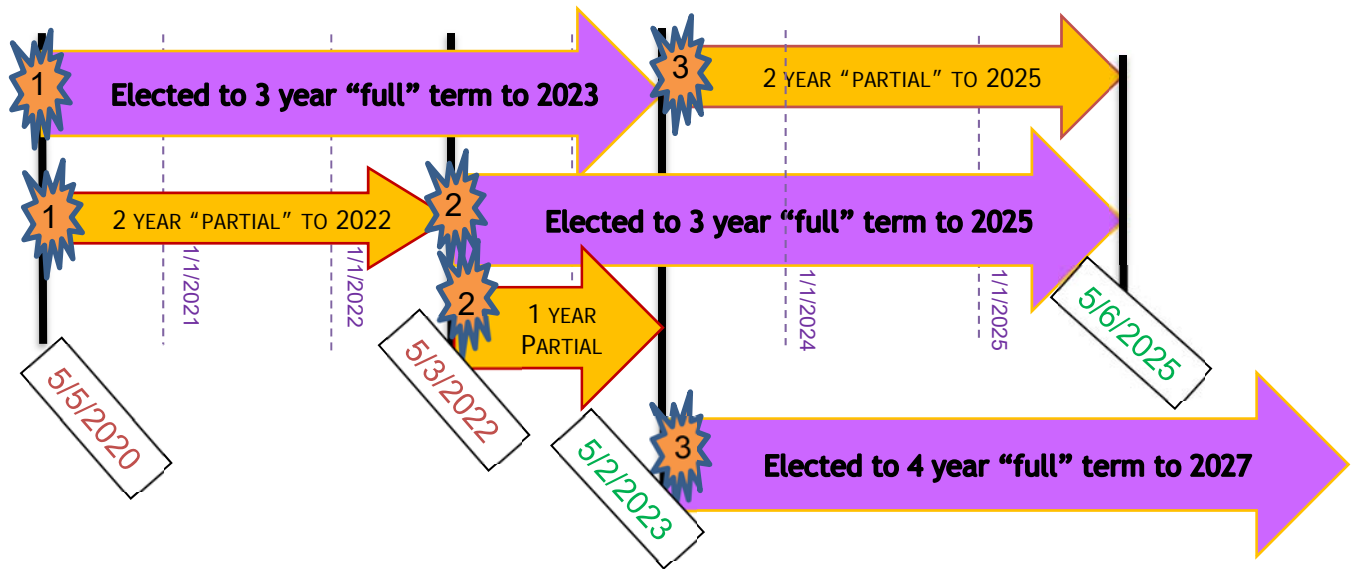
Appointment of new directors is completely at the discretion of the Board. There are not any requirements for additional notice, vetting, etc., just that they are an eligible elector. There is a provision for the service plan approving authority (i.e., BOCC) to appoint directors after notice, but this is rarely exercised.

Any vacancy on the board shall be filled **by appointment** by the remaining director or directors, the appointee to serve until the next regular election, at which time, the vacancy shall be filled by election for any remaining unexpired portion of the term.

C.R.S. § 32-1-905(2)(a)

SD-1 (Oath), SD-2 (Notice of Appointment)

**Transition detail**



Title 32-Article 1 special districts begin the transition from even-year May elections to odd year elections starting with the May 5, 2020, election:

- 1) For the May 5, 2020, election the maximum length/full term of a director term will be three (3) years instead of the usual four (4) year term. The term end for directors appointed after May 5, 2020 is the next regular election on May 3, 2022 ( $\leq 2$  years).
- 2) The May 3, 2022, election will also feature a 3-year maximum/full term, with the additional oddity of a 1-year partial term for those appointed after May 3, 2022; appointees' terms end May 2, 2023 ( $\leq 1$  year).
- 3) May 2, 2023, election **resets** the election process. The four (4) year full term returns. Two (2) year partial terms return; the term end for directors appointed after May 2, 2023 is the next regular election on May 6, 2025 ( $\leq 2$  years).

**Do term limits apply to special districts?**

Yes, term limits apply to special district Board members. Board members may not serve more than two consecutive full terms unless voters have removed them. ("Full" is used because directors elected in 2020 and 2022 will serve 3-year terms; these too are considered full terms). In addition, there must be a full term gap before a term limited elected Board member may run for election for a full term.

The voters of any political subdivision may lengthen, shorten or eliminate the limitations on terms of office imposed by Article XVIII, Section 11 of the Constitution of Colorado.

Notably, the vast majority of metropolitan districts have voted to remove term limits and nearly half (45%) of non-metropolitan (fire, water, etc.) special districts have done so, according to DLG records.



**Does time served as an appointee to the Board count towards term limits?**

No.

Term limits only apply to *full* terms, not partial terms. If a director is appointed to fill a vacancy, the period served does *not* count towards the director’s term limits.

Attorney General Opinion No. 2000-02

However, a director who resigns from office before the completion of the second full term (or any term) will be deemed to have served a complete term.

Attorney General Opinion No. 2005-04

**Can a person be a candidate for more than one special district simultaneously?**

Yes.

The statute makes a specific exception for special district Board members by stating that the statute shall not prohibit a candidate or elected official of **any** political subdivision from being a candidate or member of the Board of Directors of any special district or districts in which he or she is an eligible elector.

C.R.S. § 1-13.5-301(2)

**What are the oath and bond requirements for a member of a special district Board?**

Every time a director is appointed, elected, or re-elected, they must take an oath within 30 days of their election or appointment “except for good cause\* shown”.

Note that oaths for cancelled elections must be taken after the ***date of the election***: Any oath taken prior to that (immediately after the election is cancelled, for example) is invalid.

With the passage of HB-1138 and SB-242 in 2018, the oath requirement changed somewhat; the biggest and most important change being that effective August 1, 2018, the oath must be filed with the County Clerk and Recorder for each county in which the special district is located *prior* to taking office which may cause logistical problems if unknown ahead of time.

C.R.S. § 32-1-901(1); Article XII, Section 8 Colorado Constitution

***\*\*In summary, oaths of office must be submitted to three agencies (i.e. DLG, Clerk of the District Court, and the County Clerk and Recorder).***

C.R.S. § 32-1-901; 32-1-902(2), 24-12-101

Form SD-1

**When directors file an oath, they also file their bond.**

At the time of the filing of the oath, there shall also be filed for each director an individual, schedule, or blanket surety bond at the expense of the special district, in an

amount determined by the Board of not less than \$1,000 for each director, conditioned upon the faithful performance of his/her duties as director. For the treasurer, there must be filed a corporate fidelity bond in an amount determined by the Board of not less than \$5,000, conditioned on the faithful performance of the duties of his/her office.

C.R.S. § 32-1-901(2), 32-1-902

Example bond: SD-0

### **What happens if a director fails to take an oath?**

The director's seat may be deemed vacant if the oath is not taken within 30 days of election or appointment.

Note that there is not a deadline to file with DLG, but 30 days is a good goal.

If any director fails to take the oath or furnish the bond within the period allowed, *except for good cause shown\**, his/her office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director; except when a board is unable to appoint; remedied as described in 32-1-905 (2 & 2.5).

\*What is *good cause shown*? That's up to the district Board and its legal counsel.

C.R.S. § 32-1-901(3)

### **Are special district Board members compensated for their time?**

Directors serving a term of office commencing on or after January 1, 2018, may receive as compensation for the director's service a sum not in excess of \*\$2,400 per annum.

For directors serving a term of office on or before January 1, 2018, they may receive as compensation for his/her service, a sum not in excess of \$1,600 per annum.

In either case, director compensation is not to exceed \$100 per meeting attended.

Compensation is not required, however, and many directors are not paid.

\*Note: Any term after May 5, 2020, is eligible for the \$2,400 annual max.

C.R.S. § 32-1-902(3)(a)

### **How is the Board of Directors organized?**

Once the directors take oaths, the Board will elect the officers. A chairman, treasurer, and secretary are required, although the secretary and treasurer may be the same director. Other titles include may include Vice President and Assistant Secretary.

The board shall elect one of its members as chairman of the board and president of the special district, one of its members as a treasurer of the board and special district, and a secretary who may be a member of the board. The secretary and the treasurer may be one person, but, if such is the case, he or she shall be a member of the board. The board shall adopt a seal, and the secretary shall keep in a visual text format that may be transmitted electronically a record of all its proceedings, minutes of all meetings,

certificates, contracts, bonds given by employees, and all corporate acts, which shall be open to inspection of all electors, as well as to all other interested parties.

C.R.S. § 32-1-902(1)

### **What are the specific duties of the treasurer?**

Generally, the day-to-day functions of the special district, including the filing of the corporate fidelity bond, are performed by the special district staff or managing entity.

The treasurer shall keep strict and accurate accounts of all money received by and disbursed for and on behalf of the special district in permanent records. He/she shall file with the clerk of the court, at the expense of the district, a corporate fidelity bond in an amount determined by the board of not less than \$5,000, conditioned on the faithful performance of the duties of his/her office.

C.R.S. § 32-1-902(2)

### **What causes a vacancy on the board of directors?**

Vacancies most commonly occur because a Board member resigns from the Board or is no longer an eligible elector of the special district. But the Special District Act details several possibilities.

A director's office shall be deemed vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

- a) If for any reason a properly qualified person is not elected to a director's office by the electors as required at a regular election;
- b) If a person who was duly elected or appointed fails, neglects or refuses to subscribe to an oath of office or to furnish the bond;
- c) If a person who was duly elected or appointed submits a written resignation to the Board;
- d) If a person who was duly elected or appointed ceases to be qualified for the office to which he/she was elected;
- e) If a person who was duly elected or appointed is convicted of a felony;
- f) If a court of competent jurisdiction voids the election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his/her right to appeal has been waived or otherwise exhausted;
- g) If a person who was duly elected or appointed fails to attend three consecutive regular meetings of the Board without the Board having entered upon its minutes an approval for an additional absence or absences; except that such additional absence or absences shall be excused for temporary mental or physical disability or illness; or
- h) If the person who was duly elected or appointed dies during his term of office.

C.R.S. § 32-1-905 (1)

## ***ELECTIONS GENERALLY***

### **Regular and Special Election Dates:**

<b>Thru 2022</b>	<b>February</b>	<b>May</b>	<b>October</b>	<b>November</b>	<b>December</b>
Ballot Questions (not \$'s)	M/P	M/P	M/P	M/P/C	M/P
Ballot Issues (\$'s)	-	M Even Years Only	-	M/C	-
Regular (Directors)	-	M/P Even Years Only	-	-	-

M = Mail Ballot Election, P = Polling Place Election, C = County Coordinated Election

<b>As of 2023</b>	<b>February</b>	<b>May</b>	<b>October</b>	<b>November</b>	<b>December</b>
Ballot Questions (not \$'s)	M/P	M/P	M/P	M/P/C	M/P
Ballot Issues (\$'s)	-	M Odd Years Only	-	M/C	-
Regular (Directors)	-	M/P Odd Years Only	-	-	-

M = Mail Ballot Election, P = Polling Place Election, C = County Coordinated Election

### **When does the election process begin?**

While there isn't a hard date formally set in the law, other deadlines serve as indicators that the Board should at least appoint a DEO for a regular election. DLG recommends DEO appointment happens in the December to January timeframe for a regular director election because candidates may begin submitting self-nomination forms as early as January 1 of the election year.

For elections involving ballot issues/questions, notification to the county clerk (100 days prior, if coordinated), signed IGA (70 days, if coordinated), and ballot certification (60 days prior to any election) serve as the most important hard deadlines, but districts generally need much more preparation time prior to that for determining financial needs (if asking for higher taxes, property tax debt, etc.), verifying ballot language with a legal professional, outreach or other precursors.

Election Resolution – Polling place or mail ballot: SD-4

DEO official appointment: SD-5

### **In what manner may elections be conducted?**

Special districts have two (2) options for independent elections under the Code. They may be conducted as “polling place elections” or as “mail ballot elections\*\*.” See section on Mail Ballot Elections ▼ below.

A third option is to participate in the coordinated elections conducted during November and conducted by the County Clerk and Recorder(s) on behalf of the special district.

C.R.S. § 1-13.5-1100; 1-7-116(1)(b), 1-13.5-500 et seq.

**\*\*Note:** A ballot issue election (TABOR) that is not part of an organizational election shall be conducted either as part of a coordinated election in November or as a mail ballot election – in accordance with the provisions of Article 13.5, part 11 of Title 1, C.R.S. Ergo, a TABOR election that *coincides with a regular election in May* is only to be conducted as a mail ballot election.

C.R.S. § 32-1-103(17); 1-13.5-111(2)

### **Are district elections “nonpartisan” elections?**

Yes. Special district elections are nonpartisan, meaning that no candidate may identify as affiliated with a political party.

C.R.S. § 1-1-104(23.3, 23.6), 1-13.5-102

### **What is a special election?**

A special election is any election called by the Board for submission of public questions and other matters. The election shall be held on the first Tuesday after the first Monday in February, May (odd-numbered years through 2022, even-numbered years after 2023), October or December.

Ballot **issue** elections (TABOR) shall be held only at the time of a state general election (November of even-numbered years), the special district’s biennial regular election, or on the first Tuesday in November of odd-numbered years.

\*Rare: A special district may petition the district court which has jurisdiction for permission to hold a special election on a day other than those specified.

C.R.S. § 32-1-103(21); 1-13.5-111(2)

### **What are coordinated elections and how are they conducted?**

A coordinated election is one in which the County Clerk and Recorder(s) agree to conduct an election for a special district (or other local governments) **in November**.

If more than one political subdivision holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the county clerk and recorder is the coordinating election official and shall conduct the election on behalf of all political subdivisions whose elections are part of the coordinated election, utilizing the mail ballot procedure set forth in Article 7.5 “(of Title 1, or “Mail Ballot Act”).

C.R.S. § 1-7-116(1)(a)

If a district has determined by formal action to coordinate with the county clerk and recorder, it must notify the county clerk and recorder, in writing, of its intent to coordinate no later than **one (100) hundred days** before the election.

C.R.S. § 1-7-116(5)

**Are counties required to provide an estimate for the cost of conducting a coordinated election?**

Yes. Any election called by a nonpartisan governing body where the county clerk and recorder will have responsibilities for the election, the county clerk and recorder shall give to the governing body estimates of the costs for conducting a coordinated election. This provision still applies as it only occurs in coordinated elections.

C.R.S. § 1-5-507

**Can districts “share” polling places and judges?**

An election judge may serve more than one special district; sharing a polling place for the convenience of voters may be practical.

**Geography may actually require districts to consult with each other:** Districts **must:** “meet, confer, and thereafter, if practical, hold such elections in a manner that permits an elector in the overlapping area to vote in all of such elections at one polling place.”

C.R.S. § 1-13.5-504(3)

**Special districts may hold shared regular elections, but those elections are *not* considered *coordinated* elections.**

“Coordinated” is a specific type of election: one held in November by the county clerk and recorder using the Uniform Election Code.

Due to the requirement to “meet and confer”, “sharing” a polling place and/or election judges is encouraged but is not technically “coordinated”.

Whenever the date of a regular special district election is identical to the date set for a municipal or another special district election in any municipality or other special district having boundaries coterminous with the special district, the election may be held jointly with the municipal or other special district election. An election held jointly pursuant to this subsection (4) is not a coordinated election (those are in November and conducted by the county clerk and recorder).

C.R.S. § 1-13.5-111(4)

**What is a “designated election official”?**

“Designated Election Official” means the person designated by the governing body of a local government or by court order to supervise election duties on behalf of the local government.

C.R.S. § 1-13.5-103(2)

### **Who conducts a special district election?**

After appointment, the Designated Election Official (DEO) is in charge of the special district's election.

The DEO shall render all interpretations and make all decisions as to the controversies or other matters arising in the conduct of the elections.

C.R.S. § 1-13.5-108(1)

DEO Official appointment form: SD-5

### **Can the DEO appoint an assistant or deputy?**

Yes. Appointment of a deputy is encouraged, especially in large districts or in cases where the DEO knows they will be absent for a period of time during the election.

All powers and authority granted to the DEO...may be exercised by a deputy DEO in the absence of the DEO or in the event the DEO is unable to perform the duties.

C.R.S. § 1-13.5-108(2)

Deputy DEO appointment form: SD-5.1

### **Who is eligible to vote in a special district election?**

The vast majority of eligible electors will be those who are...

1. registered to vote in Colorado **and**:

- a. A resident of the special district (regardless of whether they own property);  
**OR**
- b. An owner of real or personal taxable property within the special district (or their spouse/civil union partner) who owns the property in their (natural person) name. Ownership really only matters if the person *is not* a resident of the district

Other ways of qualifying as an eligible elector:

- Generally real estate developers or business owners: A person who is obligated to pay taxes under a contract to purchase taxable property situated within the boundaries of the special district or the area to be included within the special district shall be considered an owner.
- Mobile home owner: For all elections and petitions that require ownership of real property or land, a mobile home or a manufactured home shall be deemed sufficient to qualify as ownership of real property or land for the purposes of voting rights and petitions.

**\*\*\*Note:** a partnership, corporation or trust is not a "person" and therefore a person owning property through such a legal entity is not eligible to vote. If these non-person entities were able to appoint a person to vote on their behalf, the law would specify this option (which it does for Business Improvement and Conservation Districts); it does not.

C.R.S. § 32-1-103(5)

### **What is a registered elector?**

A registered elector is an elector (a person legally qualified to vote in the district) who has complied with the registration provisions of C.R.S. Title 1, Uniform Election Code, and is thus claiming Colorado to be their place of primary residence.

The registration provisions of C.R.S. Title 1 state that a person is qualified for registration if the person is eighteen years of age or older on the date of the next election and who has the following qualifications:

- the person is a citizen of the United States; and
- the person has resided in this state twenty-two days immediately prior to the election at which the person intends to vote.

If any provision of the Election Code requires the signing of any document by a registered elector, the person making the signature shall be deemed to be a registered elector if the person's name and address at the time of signing the document matches the name and address for the person on the registration document at the county clerk and recorder's office, and as it appears on the master elector list on file with the secretary of state.

C.R.S. § 1-2-101; 1-1-104(35)

### **Can a renter, the owner of a condominium, or time-share owner vote in a special district election?**

Yes, if they qualify as an eligible elector as set forth above. If the ownership of the condominium or time-share unit is not in the name of the natural person, the person is not qualified to vote as a property owner elector. It is very unlikely that the person is using the time-share as their primary residence (but not completely impossible).

C.R.S. § 32-1-103(5)

### **What is a "registered voters list"?**

The list of resident eligible electors in a special district provided by the county clerk and recorder for each county that the special district is located.

Usually, except perhaps in special districts located in resort communities, the vast majority of special district's eligible electors are found on the registered voters list.

The list is used to verify eligibility of an elector who votes on the basis of being registered to vote in Colorado and residing within the special district.

The district DEO must order a registered voters' list from the county clerk and recorder(s) no later than the 40<sup>th</sup> day preceding an election. The clerk and recorder compiles and certifies a list of all the registered voters within the boundaries of the district.

There is an initial list of all registered electors as of the thirtieth day before an election with a supplemental list provided to the district on the twentieth day of all eligible electors who have become eligible since the earlier list was certified.



Alternatively, the DEO may request one complete list provided on the sixth day prior to the election containing all registered voters as of the deadline.

The cost for the lists...shall be assessed by the county clerk(s) and paid by the district holding the election. The fee for the lists shall be no less than \$25.00 for both lists nor more than one cent for each name contained on the lists, whichever is greater.

C.R.S. § 1-13.5-203

Request to Clerk & Recorder for registered electors list (letter): SD-30.1, SD-40.2(MB)

### **What is a “property owner’s list”?**

The list of taxpaying real or personal property owners within a special district provided by the County Assessor for each county in which the special district is located. These property owners *might* be eligible electors.

The district DEO must order a property owners’ list from the county assessor(s) no later than the 40<sup>th</sup> day preceding an election.

The assessor compiles and certifies a list of all the recorded owners of taxable real and personal property within the boundaries of the district.

There is an initial list provided no later than thirty days before an election with a supplemental list provided to the district no later than twenty days before the election. The list shall contain names and addresses of all recorded owners who have become **owners** no later than twenty-two days prior to the election.

Conversely, the DEO may order a complete list by the sixth day prior to the election instead of the supplemental list.

The cost for the lists shall be determined by the county assessors and paid by the district holding the election. The fee for the lists shall be no less than \$25.00 for both lists nor more than one cent for each name contained on the lists, whichever is greater.

The list is used to verify eligibility of an elector who votes on the basis of being registered to vote in Colorado and owning taxable real or personal property within the district.

C.R.S. § 1-13.5-204

Request to Assessor for mail ballot: SD-30.2, SD-40.1

### **What is taxable property?**

Taxable property is real or personal property subject to general ad valorem taxes (property taxes), excluding property for which specific ownership tax is paid.

C.R.S. § 32-1-103(22)

### **What is the difference between real and personal property?**

Real property is basically real estate; the land itself, improvements, and rights that come along with it.

C.R.S. § 39-1-102(14)

Personal property relates to things like machinery, equipment, and other articles related to commercial or industrial operations. For the tax years 2019 and 2020, the minimum actual value of personal property must be at least \$7,700 to be taxable. A business owner who owns personal property in their own name would thus only qualify as an elector in this manner if their personal property exceeded an actual value of \$7,700.

39-1-102(11), 39.-3-119.5

**What if someone moves into the District or purchases taxable District property after you receive your lists from the Clerk & Recorder and Assessor?**

New eligible electors may qualify after the last of the clerk and assessor lists are received. Same day voter registration is allowed in special district elections, but registration is a function of the clerk and recorder and not a special district.

If a person claiming to have registered that day is not on the voter list, the voter self-affirmation is required (polling place election).

C.R.S. § 1-13.5-605(2)(a).

Self-affirming oath or affirmation of elector: SD-36.2

Notably, the Special District Act specifically prohibits transfer of property for the purpose of qualifying an elector: “No person shall knowingly take or place title to taxable property in the name of another...for the purpose of attempting to qualify such person as an eligible elector.”

C.R.S. § 32-1-808(1)

**What does a special district candidate have to file to run for office?**

1. Fill out a self-nomination form, due 67 days prior to the regular election date. An eligible elector of the state signs as a witness.

Or,

2. Complete a write-in affidavit, due 64 days prior to the regular election date.

The self-nomination form/letter is most often utilized. Generally, the latter is used only when there are remaining seats to be filled and the district has not received enough self-nomination forms prior to the deadline. However, elections have been triggered because of the affidavit as well.

No earlier than January 1 and no later than the normal close of business on the sixty-seventh day (generally late February/early March) before the date of a regular special district election, any person who desires to be a candidate for the office of a special district director shall file a self-nomination and acceptance form or letter signed by the candidate and by an eligible elector of the state as a witness to the signature of the candidate.

An amended self-nomination & acceptance form or letter may be accepted by the DEO until the normal close of business on the 67<sup>th</sup> day before an election.

C.R.S. § 1-13.5-303

Self-nomination form: SD-7

Affidavit of Withdrawal: SD-8

**IF THE ELECTION IS NOT CANCELLED, then CANDIDATES must...**

File the Self-nomination forms and write-in affidavits with the Secretary of State's office **only** if the election **will not be cancelled** (competitive election with voting to transpire). This duty is generally considered the responsibility of the candidate. But SOS Rule 16 also allows the DEO to file them.

If the election is cancelled, self-nomination forms and write-in affidavits **are not filed** anywhere outside the special district.

A candidate in a special district election shall file the candidate affidavit or, alternatively, a copy of the candidate's self-nomination and acceptance form or letter submitted in accordance with, C.R.S. Section 1-13.5-303, if such form or letter contains a statement that the candidate is familiar with the provisions of this article, no later than the date established for certification of the special district's ballot pursuant to section 1-5-203(3)(a) (no later than 60 days before the election).

C.R.S. § 1-45-110

The special district DEO or director candidate shall provide to the Secretary of State the self-nomination and acceptance forms and letters, and affidavits of intent to be a write-in candidate no later than 60 days pursuant to section 1-5-203(3)(a), C.R.S.

SOS CPF Rule16

Candidates are not required to file reports with the Secretary of State unless their aggregate spending is over \$200. Each candidate will attest to such on their self-nomination & acceptance form or write-in affidavit.

SOS Rule 16.3 C.R.S. §1-45-109(1)(a)(II); C.R.S. §1-45-108(1)(c)

► Email: [cpfhelp@sos.state.co.us](mailto:cpfhelp@sos.state.co.us) for questions about Campaign Political Finance

**When and how can an election be cancelled?**

If the number of candidates is equal to or less than the number of seats available, the election may be cancelled, and the candidates are elected by acclamation. The earliest this may occur is any time after the 63<sup>rd</sup> day before the election.

If the only matter before the electors in a nonpartisan election is the election of persons to office and if, at the close of business on the 63<sup>rd</sup> day before the election or anytime thereafter, there are not more candidates than offices to be filled at the election, including candidates filing affidavits of intent (write-ins), the DEO, if instructed by resolution of the governing body, shall cancel the election and declare the candidates elected.

C.R.S. § 1-13.5-513(1)

However, if the electors are to consider the election of persons to office **and** ballot issues or ballot questions, the election may be cancelled by the governing body only in the event that there are not more candidates than offices to be filled at the election and

that all ballot issues and ballot questions have been **withdrawn**. No election may be cancelled in part.

C.R.S. §1-13.5-513(3),(4)

### **Notice of Cancellation**

This is the notice published in the special district's chosen legal publication. A copy of the notice, combined with the Board's Resolution appointing the DEO and authorizing the cancellation of the election (or Board's Resolution formally cancelling the election) is filed with DLG.

The governing body or DEO shall provide notice by publication, as that term is defined in Section 1-13.5-501, of the cancellation of the election. A copy of the notice must be posted at each polling location of the local government, in the office of the designated election official, and in the office of the clerk and recorder for each county in which the political subdivision is located and, for special districts, a copy of the notice must be filed with DLG. The governing body shall also notify the candidates that the election was cancelled and that they were elected by acclamation.

The results of a special district election (even one that has been legally cancelled) shall be certified to DLG within 30 days after the election by **sending DLG a notice and a copy of the board resolution either appointing the DEO & providing the ability to cancel or a formal board cancellation.**

C.R.S. § 1-13.5-513(6) 1-11-103(3); 32-1-104(1)

Notice of Cancellation: SD-11

Board Resolution appointing DEO: SD-4, SD-5

Board Resolution formally cancelling election: SD-12

### **When may a candidate withdraw their nomination?**

A candidate may withdraw any time, but should submit an affidavit\* of withdrawal for it to be official.

Any person who has been nominated and who has accepted a nomination, or filed a self-nomination form or letter, may cause his or her name to be withdrawn from such nomination at any time before the election by executing a written \*affidavit withdrawing from the nomination.

C.R.S. § 1-13.5-304

\*The Article defines "affidavit" as a sworn statement in writing, including a self-affirmation.

C.R.S. § 1-13.5-103(1.5)

### **What if a candidate withdraws or dies but their names are already printed on the ballots?**

If the ballots are already printed, the votes cast for the withdrawn or deceased candidate are invalid and will not be counted.

C.R.S. § 1-13.5-903(3)

### **What if there is an error on the ballots or publication?**

If the DEO discovers or it is brought to the DEO's attention that there is an error on the ballot or publication, the DEO shall correct, without delay, any error which can be corrected without interfering with the timely distribution of the ballots.

C.R.S. § 1-13.5-903(1)

### **How long must election materials and records be kept?**

The **ballots**, when not required to be taken from the sealed box for the purpose of election contests, shall remain in the sealed box in the custody of the designated election official until **twenty-five (25) months** after the date the polls closed for the election at which the ballots were cast or until the time has expired for which the ballots would be needed in any contest proceedings, at which time the sealed box must be opened by the designated election official and the ballots destroyed by fire, shredding, burial, or by any other method approved by the governing body.

C.R.S. § 1-13.5-616

The designated election official shall preserve **all other official election records** and forms for at least **six (6) months** following the date the polls closed.

C.R.S. § 1-13.5-616(2)

### **Are election records public records?**

Depends on which records.

**PUBLIC RECORDS:** 24-72-204(8) prohibits a DEO from allowing someone other than the "person in interest" to inspect election records that contain the original or electronic, digital or scanned images of the signature, social security number, month and day of birth or identification of the person. Identification may include addresses §1-1-104(19.5)(b). Any other election record is open to inspection. A person in interest is the subject of the record or their appointed/legal representative (24-72-202 (4)).

**ELECTION RECORDS:** Includes but is not limited to accounting forms, certificates of registration, pollbooks, certificates of election, signature cards, all affidavits, mail-in voter applications, mail-in voter lists and records, mail-in voter return envelopes, voted ballots, unused ballots, spoiled ballots, and replacement ballots.

C.R.S. § 1-1-104(11)

**SELF-NOMINATION & ACCEPTANCE FORMS:** "Documents Are Public Records", specifically lists "acceptances" (Self-Nomination and Acceptance) as a public record. And acceptances also do not appear in the list of records subject to 1-1-104(11) and correspondingly 24-72-204(8).

C.R.S. § 1-4-504

**\*Note** that "identification" may include an address, thus a pollbook given over for public record should hide the address. The pollbook itself may be considered a "work product"

until completed. Consultation with legal counsel is recommended if the poll book or any other request for voter information is made.

**May special districts spend money to support the campaign of an issue, candidate, etc.?**

No, especially after the ballot (esp. language) has been approved by resolution of the board.

No...political subdivision of the state shall not make any contribution to the campaigns involving the nomination, retention, or election of any person to any public office, nor shall any such entity make any donation to any other person for the purpose of making an independent expenditure, nor shall any such entity expend any moneys from any source, or make any contributions, to urge any electors to vote in favor of any referred measures (ballot issues/questions).

C.R.S. § 1-45-117(1)(a)(I), (a)(I)(c)

Except that a member or employee of any such...board...may respond to questions about any such issue...if the member has not solicited the issue. A member or employee of any such...board...who has policy-making responsibilities may expend not more than fifty dollars of public moneys in the form of letters, telephone calls, or other activities incidental to expressing his or her opinion on any such issue described in subparagraph (I) of this paragraph (a).

C.R.S. § 1-45-117(1)(a)(II)

*See Regents of the University of Colorado v. Meyer*

***NOTICE AND PREPARATION FOR ELECTIONS***

**How does a district inform the electorate of the election and inform voters how to become candidates if interested (What is the Call for Nominations)?**

The only election announcement requirement before the **cancellation deadline** is the Call for Nominations, which is published once (in the district's chosen legal publication/newspaper) sometime 75 to 100 days before the regular election date (generally late-January to mid/late-February).

The Notice to Electors also has election information. See next entry below.

Between 75 days and 100 days before a regular special district election, the designated election official shall provide notice by publication of a **"call for nominations"** for the election. The call shall state the special district director offices to be voted upon at the election, where a self-nomination and acceptance form may be obtained, the deadline for submitting the self-nomination and acceptance form to the designated election official, and information on obtaining an absentee ballot.

C.R.S. § 1-13.5-501(1)

**What is the Notice to Electors (aka Transparency Notice)?**

This is an annual filing that contains the district’s contact information. It also includes important election information including:

- the date of the next regular election,
- names of directors up for election (includes director terms),
- how and when to submit a self-nomination form
- how to apply for permanent absentee voter status
- URL where election results will be posted

C.R.S. § 32-1-809

**What is the Notice of Election?**

A publication for competitive elections that are held (not cancelled), which is posted at least 20 days prior to the election date.

(1) The designated election official, at least twenty days before each local government election, shall give written notice of the election stating the date of the election and the location and hours during which the polls will be open; the date ballots have or may be mailed if the election is conducted by mail ballot; mail ballot drop-off locations; names of the officers to be elected and any ballot issues and ballot questions to be voted upon; and the names of those candidates whose nominations have been certified to the designated election official, which listing must be as nearly as possible in the form in which such nominations will appear upon the official ballot. For an independent mail ballot election, the notice does not need to include the text of the ballot issues or ballot questions. A copy of the notice must be posted until after the election in a conspicuous place in the office of the designated election official. A copy of the notice must be mailed or sent via electronic mail to the county clerk and recorder.

(2) In addition, the notice required by this section must be published in at least one newspaper having general circulation in the local government on or before the twentieth day before election day.

C.R.S. § 1-13.5-502

**How is “publication” defined?**

Publication means printing one time, in one newspaper of general circulation in the special district if there is such a newspaper, and, if not, then in a newspaper in the county in which the special district is located. For a special district with territory within more than one county, if publication cannot be made in one newspaper of general circulation in the special district, then one publication is required in a newspaper in each county in which the special district is located and in which the special district also has 50 or more eligible electors.

C.R.S. § 1-13.5-501(2)

### **How are polling places established?**

The governing body of each local government, or designated election official, shall divide the jurisdiction into as many precincts for local government elections as it deems expedient for the convenience of electors and shall designate the location and address for each polling place at which elections are held.

C.R.S. § 1-13.5-504(2)

### **Must an election be held within the district boundaries?**

The statute states polling place locations should be “expedient for the convenience of the electors of the local governments”, but there’s nothing specifically prohibiting the polling place being outside the district boundaries.

If for whatever reason district electors are unhappy with the choice, the DEO shall change the location of the polling place upon petition of the majority of the registered electors *residing* within the district (very unlikely).

C.R.S. § 1-13.5-504(2) and (4)

### **Can polling places be in private locations?**

The polling locations or drop-off location shall be in public locations wherever possible. A private location may be used only when no appropriate public location is available.

C.R.S. § 1-5-105(3)

### **What provisions must be made for disabled electors?**

Each polling place or walk-in site shall be accessible to persons with disabilities, pursuant to the Help America Vote Act.

\*Note: Americans with Disabilities Act (ADA) standards also apply.

C.R.S. § 1-13.5-504.5(1)

### **What are the requirements for polling place signs?**

Polling locations must be designated by a sign conspicuously posted at least twenty (20) days before each election. The sign shall be substantially in the following form: “Polling place for (name of local government).” The lettering on the sign and the polling place number shall be black on a white background.

C.R.S. §1-13.5-502(3)

The letters and numerals of the title shall be at least four inches (4”) in height. In addition, the sign shall state the hours the polling place will be open.

C.R.S. §1-5-106

Polling Place Sign: SD-37.1



## **A no-electioneering zone must also be demarcated**

No electioneering may occur within 100' feet of an area where voting takes place.

C.R.S. §1-13-714, §1-5-504.5(1)(b)

No electioneering sign: SD-37.2

## **How are ballot questions and issues identified on the ballot?**

District Board members *refer* questions and issues to the voters. A ballot **question** does **not** involve financial matters, whereas a ballot **issue** does involve financial matters and must follow TABOR requirements. These appear after candidate names in a regular election. In coordinated elections these will generally be found near the bottom of the ballot.

## **May eligible electors of a special district initiate a ballot issue or question?**

No. Petitioning the board is possible to start the process of inclusion, exclusion, recall, etc., but the initiative process available to state, municipal, and county government electors to pose a ballot issue or question to voters is **not** available to eligible electors of special districts.

## **How should the ballot be ordered?**

- Candidate Names
- Issues to increase taxes
- Issues to increase debt
- Other referred measures

C.R.S. § 1-13.5-902(7)

Sample ballot: SD-35 (PP/A), SD-42.1 (MB)

## **How is the order of candidate names on the ballot determined?**

By lot. (i.e, drawing straws, putting all the names in a hat and having them drawn out by the DEO)

The names must be arranged by lot at any time prior to the certification of the ballot (no later than 60 days before the election). The DEO shall notify the candidates of the time and place of the lot drawing.

The drawing shall be performed by the designated election official or a designee.

C.R.S. § 1-13.5-902(2)1-5-406

## **Are nicknames allowed on the ballot for candidate names?**

Yes. Each candidate may include one nickname if the candidate regularly uses the nickname and the nickname does not contain any part of a political party name.

C.R.S. § 1-13.5-902(5)

**Are titles (professional, etc.) allowed on the ballot with candidate names?**

No. Any title or degree designating the business or profession of the candidate shall not be printed on the ballot.

C.R.S. § 1-13.5-902(5)

**What is the deadline for the printing of ballots?**

30 days prior to the election.

The DEO of each local government using paper ballots shall provide printed ballots for the local government election. The official ballot shall be printed and in the possession of the designated election official at least 30 days before the election.

However, this is somewhat skewed by the fact that UOCAVA ballots are sent 45 days in advance. Because of this, while the deadline is 30 days, the *de facto* deadline to have at least some ballots printed is much earlier.

C.R.S. § 1-13.5-902(1), 1-8.3-110(1)

**What is ballot certification and when does it occur?**

The DEO must certify the ballot content no later than 60 days prior to the election. At that time, the assumption should be made that the ballot is set in stone and may be printed once certified.

C.R.S. § 1-13.5-511

Ballot Certification: SD-22

**In a coordinated election**, a special district DEO will certify to the county clerk and recorder that the language of the ballot is final and ready for printing. If a district is conducting an election independent of the clerk, then the DEO is certifying the ballot contents to the special district.

Once a ballot is officially certified for an independent election, the political subdivision should contract with a print vendor and have the ballot packets printed. Take into consideration that UOCAVA ballots are sent at 45 days prior to the election date.

Note: The form of paper ballots for **polling place** elections is described in detail in section 1-13.5-902(8)(a). The ballot must have perforated stubs and have a facsimile signature of the DEO. It may be difficult to find a printer who has experience printing ballots and associated forms such as the absentee or mail ballot, secrecy sleeves, and outgoing/return envelopes.

If you are having difficulty finding an appropriate printer, DLG recommends contacting your local county Clerk & Recorder or a local special district that frequently conducts elections.

HB16-1442 clarified that a duplicate tab is *not* required for a ballot that is prepared for an independent **mail ballot** election under the Code. C.R.S. Section 1-13.5-902(8)(b).

**What if a technical revision to ballot content occurs prior to printing the ballots (in an independent election\*)?**

The DEO may recertify the ballot if...there are technical revisions to a ballot issue or ballot question prior to the ballots being printed.

C.R.S. § 1-13.5-511(2)(b)

*\*This revision ability may not be applicable in coordinated elections.*

**Under what conditions must the ballot and election materials be written in a language other than English?**

The Federal Voting Rights Act (The Act) codifies the 15<sup>th</sup> Amendment of the United States Constitution guaranteeing that no person shall be denied the right to vote on account of race or color. In addition, the Act contains several special provisions that impose stringent requirements on “covered” jurisdictions in certain areas of the country.

Section 203 of the Federal Voting Rights Act mandates that a state or political subdivision must provide language assistance to voters if **more than 5 percent** of the voting-age citizens are members of a single-language minority group who do not “speak or understand English adequately enough to participate in the electoral process” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.

A political subdivision is also covered if more than 10,000 members of the voting age citizens are members of a single-language minority group (in addition to the education rules).

The Census Bureau Director has the responsibility to determine which states and political subdivisions are subject to the minority language assistance provisions of Section 203. Current census data is used to identify the geographic areas impacted. The determination of the director is published in the Federal Register.

On October 13, 2011, the Census Bureau released its official findings for **Colorado** based on 5-year American Community Survey estimates, enhanced with 2010 Census data. The following Colorado Counties must have ballots in an additional language:

- **Costilla** (Spanish)
- **Denver** (Spanish)
- **Rio Grande** (Spanish)

Federal Voting Rights Act; Census Bureau

## **ELECTION JUDGES**

### **What are the qualifications for an election judge?**

Each election judge must be registered to vote in Colorado and at least eighteen years of age. Election judges shall be appointed without regard to party affiliation. Election judges are not required to be eligible electors of the special district they are serving.

C.R.S. § 1-13.5-401(1)

Judges are mailed a certificate of appointment by the DEO no later than 15 days prior to the election date. In that mailing is an acceptance of appointment form that must be returned by the appointee within 7 days from the day the DEO's certificate and form were sent. Failure to respond in a timely manner may result in a vacancy.

C.R.S. § 1-13.5-401, 403, 404

Before votes are taken, the election judges take an oath.

C.R.S. § 1-13.5-407

Certification of election judges: SD-51

Election judge acceptance of appointment: SD-52

Election judge oath: SD-54

### **What would disqualify someone from serving as an election judge?**

NEITHER a current candidate for director nor any immediate family member to the 2<sup>nd</sup> degree, of such candidate is eligible to serve as an election judge.

C.R.S. § 1-13.5-401(1)(b)

### **How many judges are required for a special district election?**

At least 2 are required. But 3 are recommended for polling place elections to allow for breaks due to the logistics of how people vote.

The governing body, or the designated election official, if authorized pursuant to section 1-13.5-401(2), shall appoint at least two election judges for each local government election. The appointing authority may also appoint any additional judges as deemed necessary, and may appoint counting judges.

C.R.S. § 1-13.5-402

### **What is the compensation for election judges?**

The election judges at any local government election shall receive *reasonable compensation* for their services as election judges on election day and additional reasonable compensation for attending an instruction class required in section [1-13.5-408](#), as determined by the governing body of the local government or designated election official if authorized by the governing body to make a reasonable determination.

\*Note: In budgeting election costs, the governing body should consider that the election judges will be serving at least a 12 hour day, if not longer. DLG recommends contacting the local county clerk & recorder for wage comparison.

C.R.S. § 1-6-115  
Election judge pay sheet: SD-53

**CONDUCT OF ELECTIONS**

**How does an eligible elector secure a ballot at a polling place election?**

Voter eligibility for the vast majority of special district electors is known well before election day because the DEO will have compiled the poll book containing eligible elector names prior to that date. The eligible elector simply states who they are, and if they are on the list signs that they are who they say.

A person must be an eligible elector as defined in 32-1-103(5)(a), The elector shall write their name and address and sign an Eligible Voter form provided by the DEO of the district (such form has no defined name in statute):

I state under penalty of perjury that I am an elector who is eligible to vote each of the ballots that I have cast in this election; that my signature and name are as shown on this document; that I have not and will not cast more than one ballot for a matter to be decided in this election; and that my ballots are cast in accordance with applicable law.

Name: .....

Date: .....

Signature of elector: .....

If the elector's name appears on the registration or property owners list, the elector shall be allowed to enter the immediate voting area.

C.R.S. § 1-13.5-605(1)

Poll Book: SD-33 (PP)

Eligible voter form (name in poll book): SD-36

In cases where an elector's name does *not* show up on either the registered or property owners lists, the elector is simply directed to also attest to **the self-affirming oath/affirmation**, which states:

I, (printed name), who reside at (address), am an elector of this (name of special district) district and desire to vote at this election. I do solemnly swear (or affirm) that i am registered to vote in the state of Colorado and qualified to vote in this special district election as:

\_\_\_\_\_ a resident of the district or area to be included In the district; or

\_\_\_\_\_ the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district; or

\_\_\_\_\_ a person who is obligated to pay taxes under a contract to purchase taxable property in the special district or the area to be included within the special district; or

\_\_\_\_\_ the spouse or civil union partner of (name of spouse or civil union partner) who is the owner of taxable real or personal property situated within the boundaries of the special district or area to be included within the special district.

I have not voted previously at this election.

Date \_\_\_\_\_

Signature of elector \_\_\_\_\_.

C.R.S. § 1-13.5-605(2)

Self-affirming oath or affirmation of elector (not in pollbook) : SD-36.2

Before delivering the ballot to an elector, the election judge having charge of the ballots shall endorse his or her initials on the duplicate stub. An election judge shall enter the name of the elector and number of said ballot in the pollbook.

C.R.S. § 1-13.5-605(7)

If for whatever reason the election judge(s) have reason to believe the person intending to vote is not eligible, it is their duty to challenge the voter.

See “**Challenges to Voting**” below for more information.

C.R.S. § 1-13.5-1202(2)

For electors who vote at any election by absentee or mail ballot, the affidavit on the return envelope must contain the oath found at 1-13.5-605(1).

### **When are polls open?**

Polling places open from 7:00AM to 7:00PM on election day.

At all elections held under article 13.5, the polls shall be opened at 7 a.m. and remain open until 7 p.m. of the same day. If a full set of election judges is not present at the hour of 7 a.m., an alternate election judge shall be appointed by the designated election official or judge in attendance at the polling place. The polls shall be opened if at least two election judges are present, even if the alternate judge has not arrived. Every person otherwise qualified to vote who is standing in line waiting to vote at 7 p.m. may vote.

C.R.S. § 1-13.5-601

### **How do the judges check eligibility and give the voter a ballot? (Example)**

When the elector presents the completed Eligible voter form (Section 1-13.5-605(1)), one judge will announce the voter’s name and the judge in charge of the registration and property owner’s lists will check to find the name on one or the other list.

If the name is found...an election judge shall give the eligible elector one, and only one, ballot, which the election judge shall remove from the package of ballots by tearing or cutting the ballot along the perforated or dotted line. Before delivering the ballot to an elector, the election judge having charge of the ballots shall endorse his or her initials

on the duplicate stub. An election judge shall enter the name of the elector and number of said ballot in the pollbook (paper ballot election).C.R.S. § 1-13.5-605

If the elector does not appear in the voter registration or property owners list, the self-affirmation in 1-13.5-605(2) is given. Unless a successful challenge occurs, the voter continues as if they submitted an eligible voter form.

### **How does the voter vote and cast the ballot (polling place)?**

In precincts that use paper ballots, upon receiving his or her ballot, an eligible elector shall immediately retire alone to one of the voting booths provided and shall prepare the ballot by marking or stamping in ink or indelible pencil, in the appropriate margin or place, a cross mark (x) opposite the name of the candidate of the elector's choice for each office to be filled; except that no cross mark (x) is 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 mark (x) opposite the answer that he or she desires to give. Before leaving the voting booth, the elector shall fold the ballot without displaying the marks thereon so that the contents of the ballot are concealed and the stub can be removed without exposing any of the contents of the ballot, and the elector must keep the ballot folded until the elector deposits the ballot in the ballot box.

Each eligible elector who has prepared a ballot and is ready to cast his or her vote shall then leave the voting booth and approach the election judge in charge of the ballot box. The elector shall give his or her name to that judge, who shall announce the name of such elector and the number upon the duplicate stub of the ballot, which number must correspond with the stub number previously placed on the registration list or pollbook. If the stub number of the ballot corresponds and is identified by the initials of the election judge placed thereupon, the election judge shall then remove the duplicate stub from the ballot. The ballot must then be returned to the eligible elector, who shall, in full view of the election judges, cast his or her vote by depositing the ballot in the ballot box.

Each eligible elector shall mark and deposit his or her ballot without undue delay and shall leave the immediate voting area as soon as the elector votes. No elector shall occupy a voting booth already occupied by another, nor remain within the immediate voting area for more than ten minutes, nor occupy a voting booth for more than five minutes if all such booths are in use and other electors are waiting to occupy the same. No eligible elector whose name has been entered on the pollbook is allowed to reenter the immediate voting area during the election except when accompanied by an election judge.

C.R.S. § 1-13.5-606  
Voter instructions: SD-37.4  
Polling place setup - diagram: SD-37.5

**Can blind or otherwise disabled individuals, or those not able to read, or non-English speaking voters be given assistance?**

Yes. Statute details the type and manner of assistance available to these individuals. An election judge may provide assistance if requested by the voter.

C.R.S. § 1-7-111, 1-13.5-605, 607, 808, 906

**What are spoiled ballots?**

If a voter spoils their ballot – marks it or damages it in some way that their vote cannot be determined – the voter may return the spoiled ballot and obtain others, one at a time, not to exceed three ballots.

The spoiled ballots...are immediately cancelled, and notation is made in the poll book where the newly issued ballot is properly recorded. The ballot(s) shall be preserved and returned to the DEO along with the other election records and supplies.

C.R.S. § 1-13.5-608

**How are ballots counted?**

Once the polls are closed, the judges immediately proceed to count the ballots. Only watchers may be present until the count is completed.

First, the ballot box is opened and all ballots are counted. If the ballots are found to exceed the number of names entered in the poll book(s), the judges shall examine the official endorsements on the ballots. If any of the ballots in excess of the number on the poll books are deemed not to bear the official endorsement they shall be put into a separate pile and into a separate record labeled “excess ballots.”

If the ballots and poll book agree, each ballot is 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 marked upon the tally sheets.

C.R.S. § 1-13.5-609(1), 1-13.5-611

If a voter marks more names than there are persons to be elected or if for any reason it is impossible to determine the voter’s intent, the ballot shall not be counted. A defective or an incomplete cross marked on any ballot in a proper place must be counted if there is no other mark or cross 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 (DEO signature), except as provided in section 1-13.5-704, may be deposited in the ballot box, and only ballots provided in accordance with this article shall be counted.

Ballots not counted must be marked “defective” on the back thereof and shall be preserved for such time as is provided in section 1-13.5-616 for ballots and destroyed as therein directed.

C.R.S. § 1-13.5-612

Election judge’s tally sheet: SD-33.2 (PP), SD-44.4 (MB)



### **Who may be present while ballots are being counted?**

All persons, except election judges and watchers, shall be **excluded** from the place where the ballot counting is being held until the count has been completed.

C.R.S. § 1-13.5-609(3)

## ***ABSENTEE & PERMANENT ABSENTEE VOTING***

### **What is the last day to accept an application for absentee ballot?**

The application shall be filed no later than the close of business on the Tuesday immediately preceding the election in which the absentee voter wishes to vote by absentee voter's ballot.

C.R.S. § 1-13.5-1002(1)(b)

### **What form should an absentee ballot follow?**

There must be printed on the stub of an absentee ballot "Absentee Ballot Number [...], and such ballots must be numbered consecutively beginning with number one (e.g., separate/different from the regular ballots).

C.R.S. § 1-13.5-902(8)

### **What is the process for obtaining and submitting an absentee voter's ballot application?**

Requests for an application for an absentee voter's ballot shall be made verbally or in writing. The application may request that the applicant be added to the permanent absentee voter list for the local government.

Applications shall be filed in writing and be personally signed by the applicant or a family member related by blood, marriage, civil union, or adoption to the applicant. If the applicant is unable to sign the application, the applicant shall make such applicant's mark on the application, which must be witnessed by another person.

C.R.S. § 1-13.5-1002(1)

Application for absentee ballot: SD-31

### **How does the registration verification of an absentee voter occur?**

The same way any other voter eligibility would be verified, except that voter records may need to be retrieved in advance of the clerk and/or assessor records, which can all be done online.

Upon timely receipt of an application for an absentee voter's ballot within the proper time, the designated election official shall examine the records of the county clerk & recorder or the county assessor, as appropriate, to ascertain whether or not the applicant is registered and lawfully entitled to vote as requested.

C.R.S. § 1-13.5-1002

### **How does a voter prepare the absentee voter's ballot?**

Essentially the same as they would for a mail ballot.

Any eligible elector applying for and receiving an absentee voter's ballot, in casting the ballot, shall make and subscribe to the self-affirmation on the return envelope. The voter shall then mark the ballot. The voter shall fold the ballot so as to conceal the marking, deposit it in the return envelope, and seal the envelope securely.

C.R.S. § 1-13.5-1006

### **How may a completed absentee voter's ballot (in return envelope) be returned?**

Generally, by mailing it back or hand-delivering it to the DEO. It can also be given to another person to hand-deliver.

The ballot may be delivered personally or mailed by the voter to the designated election official issuing the ballot. It is permissible for a voter to deliver the ballot to any person of the voter's own choice or to any duly authorized agent of the designated election official for mailing or personal delivery to the designated election official. To be counted, all envelopes containing absentee voter's ballots must be in the hands of the designated election official or an election judge for the local government not later than 7 p.m. on election day.

\*Note: The requirement that a duly authorized agent cannot collect more than ten ballots was omitted from Article 13.5, and Article 8 was repealed.

C.R.S. § 1-13.5-1006

### **What is the process for delivery of an absentee voter's ballot to the elector?**

It depends on when the ballots are printed and when the absentee application are received. But generally they are either mailed or possibly handed directly to an eligible elector.

Ballots must be printed 30 days prior to an election, with absentee ballots sent within 72 hours after being received from the printer or within 72 hours of receiving the application for an absentee ballot after the ballots have been printed.

If the person is found to be (entitled to vote), the designated election official shall deliver, as soon as practicable but no more than seventy-two hours after the ballots have been received (once printed), an official **absentee voter's ballot**, an **identification return envelope** with the affidavit or the envelope properly filled in as to address of residence as shown by the records of the county clerk & recorder, and an instruction card. The Identification return envelope must state "do not forward. Address correction requested." or any other similar statement that is in accordance with United States Postal Service regulations. The delivery must be made to the applicant either personally in the office of the designated election official or by mail to the mailing address given in the application (for) an official absentee voter's ballot.

§ 1-13.5-1002(2)(b)  
Sample Ballot: SD-35

Absentee voter secrecy sleeve w/voter instructions: SD-31.2  
Return envelope with affidavit: SD-31.3

### **Who tracks permanent absentee applicants for future elections?**

Each district is responsible for keeping a record of permanent absentee voters. The list is reviewed each election cycle, as necessary (when there is a competitive election). However, many districts that frequently or always cancel elections may not have had any requests for several years.

Any eligible elector of a special district may apply for permanent absentee voter status. The application for permanent absentee voter status must be made in writing or by facsimile using an application form furnished by the designated election official or in the form of a letter. The application must contain the same information submitted in connection with an application for an absentee voter's ballot pursuant to C.R.S. 1-13.5-1002.

Upon receipt of an application for permanent absentee voter status, the designated election official shall process the application in the same manner as an application for an absentee voter's ballot. If DEO determines that the applicant is an eligible elector, the designated election official shall place the eligible elector's name upon the list maintained pursuant to section C.R.S. 1-13.5-1004 of those eligible electors to whom an absentee voter's ballot is mailed each time there is a coordinated election.

If there is no DEO appointed, the secretary of the local government shall process the application for permanent absentee voter status.

C.R.S. § 1-13.5-1003

Permanent absentee voters record: SD-32.3

### **How are absentee ballots tracked?**

Essentially like mail ballots.

As the absentee ballots come in, either by hand delivery or by mail, they are kept in a safe place for storage, and tracked by the DEO or deputies, but the envelopes remain unopened until election judges are brought in to count them.

C.R.S. § 1-13.5-1009

Absentee ballot daily batching log: SD-32.4

### **How may an elector obtain an emergency absentee ballot (rare)?**

If an eligible elector is confined in a hospital or at his or her place of residence on election day because of conditions arising after the closing day for absentee voter's ballot applications, he or she may request, by a written statement signed by him or her, that the designated election official send him or her an emergency absentee voter's ballot. The designated election official shall deliver the emergency absentee voter's ballot, with the word "emergency" stamped or written on the stubs of the ballot, at his or her office, during the regular hours of business, to any authorized representative of the elector possessing a written statement from the voter's physician authorized under

section 12-240-107(6), C.R.S., advanced practice nurse, or practitioner that the voter will be confined in a hospital or his or her place of residence on election day. The authorized representative shall acknowledge receipt of the emergency absentee voter's ballot with his or her signature, name, and address.

"Authorized representative" means a person possessing a written statement from the elector containing the elector's signature, name, and address and requesting that the elector's emergency absentee voter's ballot be given to the authorized person as identified by name and address.

A request for an emergency absentee voter's ballot shall be made, and the ballot shall be returned, to the designated election official's office no later than 7 P.M. on election day.

C.R.S. § 1-13.5-1011  
Request for emergency absentee ballot: SD-31.4

## **UOCAVA**

### **What is UOCAVA?**

The acronym stands for *Uniform and Overseas Citizens Absentee Voting Act*, (pronounced yoo-uh-kah-vuh by most) which is a federal law. In 2014, special districts were added to the list of local governments required to send ballots to those eligible electors of the special district who are UOCAVA voters.

UOCAVA voting occurs in both polling place and mail ballot elections.

C.R.S. § 1-8.3-103(1)(d)

### **How are UOCAVA voters found?**

The County Clerk and Recorder for each county in which the special district is located will provide a list of the resident registered voters of the special district who are UOCAVA voters.

The special district will also obtain a statewide list of all UOCAVA voters from the Secretary of State to determine if any of the special district's non-resident property owners are UOCAVA voters and therefore must also receive a UOCAVA ballot – depending on the type of election.

The independent mail ballot section of the Local Government Election Code, Part 11 of Article 13.5, specifies that mail ballot elections use the Clerk & Recorder's list of covered resident electors; but other election types (polling place, coordinated) are left ambiguous.

Thus, polling place, and coordinated elections, must review the Assessor's list for UOCAVA voters in addition to the Clerk's list.

1-13.5-1103(4), 1-8.3-102

### **When and how are UOCAVA ballots sent?**

Ballots are sent to each UOCAVA voter at least 45 days prior to the election via the preferred method of delivery for each UOCAVA voter (mail, fax or email).

### **How are UOCAVA ballots cast by the voter?**

Each UOCAVA voter can return their ballot by either mail, fax or email.

C.R.S. § 1-8.3-113(1)

The voted ballot must be postmarked or sent electronic or by fax no later than 7PM on election day. If postmarked or sent by that time, ballots arriving up to 8 days after the election date (close of business), shall be counted if the voter affidavit has been executed by the elector.

C.R.S. § 1-8.3-111, 113

## ***MAIL BALLOT ELECTIONS***

### **What is an independent mail ballot election?**

An election where all regular ballots are sent by mail to electors and the ballots then may be either mailed back or deposited at the designated site (described in mail ballot plan) by the voter.

An election for which eligible electors receive ballots by mail, and in accordance with Part 11, Article 13.5 of Title 1, C.R.S., vote by mailing those ballots or depositing those ballots.

C.R.S. § 1-13.5-1100 et seq.

Defined specifically as: a mail ballot election that the governing body of a local government determines will not be coordinated by the county clerk and recorder.

C.R.S. § 1-13.5-1102(1)

### **When are mail ballot elections required?**

Any TABOR election.

Elections with ballot issues – those in which voters are asked questions required by Article X, Section 20 of the Colorado Constitution – **must** be conducted as either independent mail ballot elections or be coordinated by the county clerk and recorder. Such “TABOR” elections may only occur in November or on the May regular special district election date.

C.R.S. § 1-13.5-111

### **What is the process for conducting a mail ballot election?**

The process is found in Part 11 of the Code. This will be somewhat similar to polling place elections with many of the same deadlines except, of course, how the ballots are delivered and cast. See calendar for details.

### **What is a mail ballot plan and where is it kept?**

For any mail ballot election, a mail ballot plan is required. The plan is kept/filed in the principal office of the district or DEO. It is **not** to be filed with the Secretary of State. It is a public record.

C.R.S. § 1-13.5-1104

The designated election official responsible for conducting an election that is to be a mail ballot election shall no later than 55 days prior to the election have on file at the office of the district or DEO a plan for conducting the independent mail ballot election. The plan is a public record.

C.R.S. § 1-13.5-1104(1)

Mail ballot plan (template): SD-43

### **What makes up a mail ballot packet?**

"Mail ballot packet" means the packet of information/documents provided by the designated election official to eligible electors in the independent mail ballot election. The packet includes the official ballot issued to such elector, instructions for completing the ballot, a secrecy envelope, and a return envelope.

C.R.S. § 1-13.5-1102(2)

Sample mail ballot return envelope with voter affidavit: SD-42.1

Mail ballot instructions and secrecy sleeve: SD-42.2

### **What is the return envelope?**

"Return envelope" means an envelope that is printed with spaces for the name and address of the eligible elector and a self-affirmation substantially in the form described in section 1-13.5-605 (1) to be signed by the eligible elector voting the ballot.

A return envelope must be designed to allow election officials, upon examining the signature, name, and address on the outside of the envelope, to determine whether the enclosed ballot is being submitted by an eligible elector who has not previously voted in that particular election.

C.R.S. § 1-13.5-1102(4)

Sample mail ballot return envelope with voter affidavit: SD-42.1

### **What is the secrecy envelope/secrecy sleeve?**

"Secrecy envelope" means the envelope or sleeve used for an independent mail ballot election (or an absentee ballot in a polling place election) that is designed to conceal elector's ballot and maintain the confidentiality of the elector's vote until the counting of the votes.

C.R.S. §1-13.5-1102(5)

Mail ballot instructions and secrecy sleeve: SD-42.2

**What form should a mail ballot follow?**

A mail ballot will be identical in appearance to a polling place ballot, but it *does not* require a duplicate stub.

C.R.S. § 1-13.5-902(8)(b)  
Sample mail ballot: SD-41

**When does a district send its mail ballots?**

Between 22 and 15 days prior to the election date.

A special district conducting an independent mail ballot election shall mail the initial ballots no sooner than 22 days before an election date, and no later than 15 days before an election date.

C.R.S. § 1-13.5-1105(4)(a)

**How does a voter return a mail ballot?**

A voter will either mail the ballot via regular U.S. mail or they may go to the DEO's office, or any place designated in the mail ballot plan to drop off the ballot.

C.R.S. § 1-13.5-1105(5)

**What if an elector did not receive a ballot? Or needs a replacement?**

A person may request a first/new ballot by formally presenting a sworn statement to the DEO. The DEO verifies the eligibility based on the information in the statement and ensures the voter is registered to vote in Colorado.

An eligible elector may obtain a replacement ballot if his or her original ballot was destroyed, spoiled, lost, or for any other reason not received by the eligible elector.

An eligible elector may obtain a ballot if a mail ballot packet was not sent to the elector because the eligibility of the elector could not be determined at the time the mail ballot packets were mailed.

In order to obtain a ballot, the eligible elector must sign a sworn statement specifying the reason for requesting the ballot, which statement must be presented to the designated election official no later than 7 p.m. on election day. The designated election official shall keep a record of each ballot issued in accordance with a list of each ballot obtained.

C.R.S. § 1-13.5-1105(4)(e)

Request for mail ballot: SD-42

Mail ballot record & reconciliation sheet: SD-44.3

**How many days must the district make their office/voting location available for voters seeking these ballots?**

The office designated in the mail ballot plan shall be open and mail ballots available for at least 22 days prior to election day. This location only needs to be open during normal business hours.

C.R.S. § 1-13.5-1105(4)(d)

**Are there election judges in a mail ballot election?**

Yes. The DEO must appoint no less than two (2) election judges. Since mail ballot elections typically have a larger voter turn-out, the DEO will need to ensure that enough election judges are appointed to handle the processing and counting of the ballots returned by the electors.

C.R.S. § 1-13.5-1107

**Can mail ballots be counted early?**

Counting of the mail ballots may begin fifteen days prior to the election and continue until counting is completed. The election official in charge of the mail ballot counting place shall take all precautions necessary to ensure the secrecy of the counting procedures, and no information concerning the count shall be released by the election officials or watchers until after 7 p.m. on election day.

\*Note: For smaller districts with few voters, counting ballots more frequently than election night after the polls close will be unnecessary.

C.R.S. § 1-13.5-1107

**How are mail ballots/votes tracked?**

While the judges will ultimately count the ballots, the DEO or an appointed Deputy DEO, if necessary, will daily collect the mail and/or ballots dropped off at the drop-off location. They will track the envelopes and whose was received each day.

Mail ballot poll book: SD-44.1  
Mail ballot daily batch log (aids counting process): SD-44.2  
Mail ballot record & reconciliation sheet: SD-44.3

The ballots are then counted just like in a polling place election until all ballots are tallied by the election judges. The judges post the abstract once the vote is counted, and then certify ASAP, keeping in mind this cannot occur until after the UOCAVA deadline has passed.

Judge’s Unofficial Abstract: SD-22.5  
Judge’s Certificate of Election Returns: SD-24

***WATCHERS***

**What is a watcher?**

Just like it sounds: A watcher is an election observer appointed by a candidate or interested party of a ballot issue/question.

Each candidate for office, or the Issue Committees in support of or against a ballot issue or ballot question, at a local government election is entitled to appoint an eligible elector



to serve as a watcher in every polling place in which he or she is a candidate or in which the issue or question is on the ballot.

C.R.S. § 1-13.5-602(1)

### **Who may be a watcher?**

Only eligible electors of the district may serve as watchers in the district's election.

Watchers shall take an *oath* administered by one of the election judges that they are *eligible electors*, that their name has been *submitted to the designated election official* as a watcher for this election, and that they will not in any manner make known to anyone the *result of counting votes* until the polls have closed.

C.R.S. § 1-13.5-602(2)

Watcher – Certificate of appointment & oath: SD-62

### **Who is prohibited from being a watcher?**

Neither a current candidate for director nor any immediate family member, to the second degree, of such candidate is eligible to serve as a watcher for that candidate.

C.R.S. § 1-13.5-602

### **What may watchers observe or do?**

A watcher serving at the polling place has 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 election judges. Each watcher may maintain a list of eligible electors as the names are announced by the election judges and witness each step in the conduct of the election.

Watchers may also challenge a person's right to vote.

C.R.S. § 1-13.5-602(1)(c)

### **What are watchers prohibited from doing?**

Duly appointed Watchers may observe election judges but **may not**

- Interrupt or disrupt the processing, verification and counting of any ballots or any other stage of the election.
- Watchers may track the names of electors who have cast ballots by utilizing their previously obtained lists, **but may not** write down any ballot numbers or any other identifying information about the electors.
- Watchers **may not** handle the poll books, self-affirming oath and affirmation forms, ballots, mail ballot envelopes, mail-in ballot envelopes or provisional ballot envelopes, voting or counting machines or machine components.
- Watchers **shall not** interfere with the orderly process and conduct of any election, including ballot issuance, receiving of ballots, voting or counting of the ballots.

- Watchers **may not** be allowed to interact with election officials or election judges, except for the individual identified by the DEO.

Watchers shall not have a cellular phone, camera, recording device, laptop or tablet, or other electronic data capture device in the polling place.

C.R.S. § 1-13.5-602(3)

### **What options does the DEO have if a watcher misbehaves?**

A designated election official may **remove** a watcher upon finding that the watcher commits or encourages fraud in connection with his or her duties, violates any of the limitations outlined in this article, violates his or her oath, or is abusive or threatening toward election officials or any other person.

C.R.S. § 1-13.5-602(4)

## **CHALLENGES TO VOTING**

### **What is a challenge? How is it different from a contest?**

A challenge is when a person's right to vote is formally questioned, (generally) in person. A contest is when the *outcome* of an election is formally questioned.

### **Who is able to challenge a person's right to vote?**

Basically, any eligible elector (watchers must be eligible electors) and election judges.

It is the duty of any election judge to challenge any person offering to vote who he or she believes is not an eligible elector. In addition, challenges may be made by watchers or any eligible elector of the special district who is present.

C.R.S. § 1-13.5-1202(2)

### **How is a challenge presented?**

The process is detailed in statute. Note that this should be quite rare.

Each challenge must 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 election judges shall deliver all challenges and oaths to the designated election official at the time the other election papers are returned. The designated election official shall deliver all challenges and oaths to the district attorney for investigation and appropriate action as soon as possible.

C.R.S. § 1-13.5-1203

The challenged voter and the challenger and election judge should step away from the immediate area in order to allow other voters to proceed to vote.

The election judge will ask the challenged voter specific questions relative to the basis of the challenge (i.e., registration, residence, property ownership, see statute/form **SD-38.2**). If the voter answers the questions and takes the oath prescribed in section 1-

13.5-1205, s(he) will be allowed to vote and the word “Sworn” must be written on the pollbook next to the person’s name.

If the challenged voter refuses to fully answer any question which is put to him or her or refuses to take the oath, the election judges shall reject the challenged person’s vote.

C.R.S. § 1-13.5-1204-6  
Voter challenge: SD-38.1  
Oath of voter challenged: SD-38.2

## ***CERTIFICATES AND ABSTRACTS OF ELECTION***

### **What is the Judges’ “Unofficial Abstract”?**

This is the initial count that is posted ASAP at the polling place.

The election judges are required to make an abstract of the count of votes containing the names of the offices, the names of the candidates, any ballot issues or ballot questions voted upon, and the number of votes counted for and against each candidate or ballot measure. The form will be provided by the DEO.

Immediately upon completion of the count, the required abstract must be posted in a conspicuous place that can be seen from the outside of the polling place or the mail ballot voting location. The abstract may be removed at any time forty-eight hours after the polls close.

C.R.S. § 1-13.5-615  
Judge’s unofficial abstract: SD-22.5

### **What is the Election Judges’ Certificate (of election returns)?**

This is the judges’ official tally, which is completed ASAP after the unofficial abstract is posted. If UOCAVA ballots were sent, it could delay the certification since they may be received as late as 8 days after election (unless none were sent)

The Canvass Board’s certification deadline is 14 days following the election.

As soon as all the votes have been read and counted (and after the abstract is posted), the election judges shall make a certificate stating:

- (a) the name of each candidate, designating the office for which each candidate received votes;
  - (b) the number of votes each candidate received, which number must be expressed in words, at full length, and in numerical figures; and
  - (c) the ballot issue or ballot question, if any, voted upon and the number of votes counted for and against the ballot issue or ballot question.
- (2) (a) In addition, the election judges shall make a statement in writing showing the number of ballots voted, containing a separate statement that identifies and specifies each of the following:
- (i) the number of ballots delivered to electors;

- (ii) the number of ballots not delivered to electors;
- (iii) the number of unofficial and substitute ballots voted;
- (iv) the number of spoiled ballots; and
- (v) the number of ballots returned.

(b) all unused ballots, spoiled ballots, and stubs of ballots voted must be returned with the statement described in paragraph (a) of this subsection (2).

C.R.S. § 1-13.5-613

Judge's certificate of election returns: SD-23 (PP), SD-24 (MB)

### **What is the Canvass Board's Certificate of Election Results?**

These are the official certified election results that are filed with DLG showing the winning candidates and/or ballot questions or ballot issues, and are due by the 14<sup>th</sup> day after the election.

Sometimes, there are multiple polling places (or mail ballot drop-off locations) and judges. The Canvass Board will add up the multiple judges' tallies.

In districts with only one polling place, there isn't much to review

No later than the fourteenth day following the election, the canvass board shall make statements from the official abstract of votes that show the names of the candidates, any ballot issue or ballot question, and the number of votes given to each. The canvass board shall certify the statement to be correct and subscribe their names thereto. The canvass board shall then determine which persons have been duly elected by the highest number of votes and shall endorse and subscribe on such statements a certificate of their determination.

C.R.S. § 1-13.5-1305(1)

Canvass Board election certificate: SD-25

### **What is given to the newly elected/reelected directors?**

Districts may do something ornate, if they like, or just send a copy of the Canvass Board's election certificate.

The DEO shall make and transmit to each of the persons thereby declared to be elected a certificate of the person's election.

C.R.S. § 1-13.5-1305(2)

### **Which entities receive copies of the Certificate of Election Results?**

Just DLG.

The DEO shall file a copy of the certificate with the DLG in the department of local affairs.

C.R.S. § 1-11-103(3), 1-13.5-1305(1)

### **What happens if there is a tie vote for directors?**

If any two or more candidates receive an equal and highest number of votes for the same office, and if there are not enough offices remaining for all such candidates, the canvass board shall determine **by lot** the person who shall be elected. Reasonable notice shall be given to such candidates of the time when such election will be so determined.

C.R.S. § 1-13.5-1304

### **What happens if there is a tie vote on a ballot question or ballot issue?**

If any ballot issue or ballot question is approved by less than the majority of the votes cast, the issue or question shall be considered to have **failed**.

C.R.S. § 1-11-102.5

## **RECOUNTS**

### **When is a recount required?**

The designated election official shall order a recount of the votes cast in any election if it appears, as evidenced by the survey of returns, that the difference between the highest number of votes cast in the election and the next highest number of votes cast in the election is less than or equal to one-half of one percent of the highest number of votes cast in the election.

Example: John gets 1,900 votes  
Bill gets 2,000 votes  
Take  $2,000 - 1,900 = 100$   
 $2,000 \text{ votes} \times 0.5\% = 10$ ;  $10 < 100$  so no auto-recount.

Any recount conducted pursuant to this subsection (1) shall be completed no later than the twenty-eighth day following the election and shall be paid for by the governing body of the local government. The designated election official shall give notice of the recount to the governing body, to all candidates and, in the case of a ballot issue or ballot question, to any issue committee that are affected by the result of the election. The notice must be given by any means reasonably expected to notify the affected candidates or issue committee. An affected candidate or issue committee is allowed to be present during and observe the recount.

C.R.S. § 1-13.5-1306(1)

Information about recounts: SD-27

An interested party (generally a candidate who lost) may also **request a recount** through a notarized written request at the interested party's expense **when a recount is not required by statute**. Requests must be made to the DEO within 17 days after the election.

C.R.S. § 1-13.5-1306(2)

## ***ELECTION CONTROVERSIES AND CONTESTS***

### **What happens if there is an election controversy?**

Basically, anyone can petition the district court for relief concerning any election controversy. But that doesn't mean the court will act or agree with the petition.

When any controversy arises between any official charged with any duty or function under this article and any candidate or other person, the district court, upon the filing of a verified petition by any such official or person setting forth in concise form the nature of the controversy and the relief sought, shall issue an order commanding the respondent in the petition to appear before the court and answer under oath to the petition. It is the duty of the court to summarily hear and dispose of any such issues, with a view to obtaining a substantial compliance with this article by the parties to the controversy, and to make and enter orders and judgments and to follow the procedures of the court to enforce all such orders and judgments.

C.R.S. § 1-13.5-1501

### **Note:**

Statute states "...**the board** shall govern the conduct of all subsequent regular and special elections... and shall render all interpretations and **make all decisions as to controversies** or other matters arising in the conduct of the elections." If a complainant does not wish to file a petition with the district court, the matter can be taken to the district's board of directors.

C.R.S. § 32-1-804(1)

**And...**The designated election official shall render all interpretations and shall make all initial decisions as to controversies or other matters arising in the operation of this article.

C.R.S. § 1-13.5-108

Generally, **the DEO will be the decision-maker** unless time and complexity of the issue requires that a decision be made by the Board of directors. As an appointed extension of the Board, the DEO will generally operate independently.

### **Why would someone contest a candidate election?**

The election of any candidate to any office may be contested on any of the following grounds (paraphrased):

- a) The candidate elected is not eligible to hold the office for which elected.
- b) Illegal votes were received or legal votes rejected at the polls in sufficient numbers to change the result of the election.
- c) Any election judge or canvass board member has made an error in counting or declaring the result of an election that changed the result of an election.
- d) An election judge, canvass board, or member of a canvass board has committed malconduct, fraud, or corruption that changed the result of the election.

e) For **any other cause**, another candidate was the legally elected person.

C.R.S. § 1-13.5-1401

### **What are the causes for contest of an election to determine a ballot issue or ballot question?**

Similar to candidate contests, the result of any election to determine a ballot issue or a ballot question may be contested on any of the following grounds:

- b) Illegal votes were received or legal votes were rejected at the polls in sufficient numbers to change the results of the election.
- c) That an election judge or canvass board has made an error in counting or declaring the result of an election that changed the result of the election.
- d) An election judge, canvass board, or member of a canvass board has committed misconduct, fraud, or corruption that changed the result of the election.

C.R.S. § 1-13.5-1408

In addition, the result of any election to determine a ballot issue that includes approval of the creation of any debt or other financial obligation may be contested if the notice (to create a financial obligation) required by C.R.S. § 1-7-908 is not provided in accordance with that section or contains any material misstatement of the information required to be set forth in the notice.

C.R.S. § 1-13.5-1408, 1-11-201(3), 1-11-201(4), 1-13.5-1401(1)(b), (c), & (d)

Contests regarding issue or question format use 1-13.5-1408(2)

### **Who may contest an election?**

The election of any candidate or the results of an election on any ballot issue or ballot question may be contested **by any eligible elector** of the political subdivision.

The individual contesting the election must file a written statement of intent to contest the election with the clerk of the district court within ten days after the canvass board's certification of election.

C.R.S. § 1-13.5-1403; 1-11-213(4)

### **What is the decision-making body for nonpartisan officers, ballot issue and ballot question election contests for nonpartisan elections?**

All contested election cases of nonpartisan officers and ballot issues/ballot questions are tried and **decided by the district court** for the county in which the contest arises. If a political subdivision is located in more than one county, the district court of either county may take jurisdiction.

C.R.S. § 1-13.5-1401 et. seq

### **What is the deadline for election contests?**

**27 days** after the election for an election where **no recount** occurs. *Or,*

**38 days** for an election where a **recount does occur**.

The contestor shall file in the office of the clerk of the district court, within ten days after the expiration of the period within which a **recount** may be requested pursuant to section 1-13.5-1306, or within ten days after the conclusion of a recount conducted pursuant to section 1-13.5-1306, whichever is later...

C.R.S. § 1-13.5-1403

## ***ELECTION OFFENSES***

### **What actions may be taken if someone believes an election offense has occurred?**

File an affidavit with the district attorney.

Any person may file an affidavit with the district attorney stating the name of any person who has violated any of the provisions of the election code and stating the facts that 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 violator.

The attorney general shall have equal power with district attorneys to file and prosecute information of complaints against any persons for violating any of the provisions of the election code.

C.R.S. §1-13.5-1601

Types of offenses are listed in: §1-13-101, 1-13-104 to 1-13-113, and Parts 2 through 8 of Title 1, Article 13.

### **What is Electioneering?**

Electioneering is commonly known as campaigning and trying to influence an elector on how to cast his or her vote.

No person shall do any electioneering on the day of any election within any polling place or in any public street or room or in any public manner within 100 feet of any building within which a polling place is located, as publicly posted by the DEO.

C.R.S. §1-13.5-1601, 1-13-714, 1-5-105

No electioneering sign: SD-37.2



## **RECALL PROCESS**

The Recall process has changed multiple times in the last decade. The most recent change moved the special district recall process in the Special District Act, where it is less likely to be altered by changes to other local governments.

### **How many signatures are required for a petition for nonpartisan officers?**

A petition to recall any director shall be signed by the lesser of three hundred eligible electors or forty percent of the eligible electors demanding the recall of any director named in the petition shall be filed in the court.

C.R.S. § 32-1-906, 32-1-909(2)

### **What are the limitations on recalling an elected official?**

A petition may not be filed against a director who has served less than six months; nor if a director's term of office expires in less than six months

C.R.S. § 32-1-906

If a director faces a recall election and voters decide in said directors favor, a subsequent recall petition for the same director and the same term increases to 50% of eligible electors.

C.R.S. § 32-1-913

### **With whom is the petition filed?**

Before the petition is circulated for signatures, it is filed with district court. The court then orders the appointment of a DEO. The DEO then reviews the petition as to form.

C.R.S. § 32-1-909(2)

### **Who approves the petition form? Who verifies signatures?**

The district court-appointed DEO approves the petition as to form, and, after circulation, also verifies signatures meet eligibility and numeric requirements (the lesser of 300 or 40% of district eligible electors).

C.R.S. § 32-1-909(2), 32-1-910(2)

The form cannot be circulated until the DEO has approved the petition form.

C.R.S. § 32-1-910(1)

### **After the DEO approves the petition form, how long do the petitioners have to circulate for signatures?**

Sixty days

C.R.S. § 32-1-910(2)

### **What should the petition include?**

For a detailed description, see 32-1-909(4) through (6).

### **Who may circulate the recall petition?**

A person must be over 18 years of age. See statutory reference (below) for more details.

C.R.S. § 32-1-910(2)(c)

## ***TABOR-RELATED ISSUES***

**All districts are urged to consult with legal counsel on any TABOR matter. The following information is of a general nature only and for informational purpose only.**

### **What is TABOR?**

It is the **Taxpayer's Bill Of Rights**, Article X, Section 20 of the Colorado Constitution. TABOR has important legal implications for the amount of revenue, spending, taxes, and debt (and other processes) that affect the administration of all Colorado local governments.

Anything TABOR-related is referred to as a **ballot issue**. A ballot question is anything that is not TABOR related.

C.R.S. § 1-1-104(2.3), (2.7)

### **For special districts, when can a TABOR related ballot issue be put on the ballot?**

At the same time as any statewide November election or at the regular special district election of the district.

Ballot issues (\$\$\$) shall be decided in a state general election, biennial local district election (regular special district elections), or on the first Tuesday in November of odd-numbered years.

Section 20 (3) (a) of Article X of the Colorado Constitution

### **How is a TABOR election conducted?**

Either as an independent mail ballot election, or a coordinated election.

C.R.S. § 1-13.5-111(2)

### **What if there is a tie vote on a TABOR ballot issue?**

If any ballot issue or ballot question is approved by less than the majority of the votes cast, the issue or question shall be considered to have failed.

C.R.S. § 1-11-102.5

### **What is the TABOR Notice (Ballot Issue notice)?**

The notice is required by paragraph (3)(b) of TABOR that is mailed to all registered voters of the district.

Specific information about the ballot issue including fiscal information and a summary of pro and con statements filed with the DEO about the ballot issue are included in the TABOR notice. (See this portion of TABOR, and Part 9, Article 7 of Title 1 for the details required of the notice, and corresponding codified notice requirements below.)

C.R.S. § 1-13.5-503(1), 1-7-901 et. Seq

### **What are the mailing requirements of the TABOR notices?**

The TABOR notice is to be mailed at least 30 days before a ballot issue election. “at the least cost.”

**For independent mail ballot elections**, the district’s DEO mails the notice.

Also for independent mail ballot elections, meet and confer about the TABOR notice:

DEOs of overlapping political subdivisions conducting an election other than a coordinated election shall **confer** concerning the preparation of the ballot issue notice and packet no later than forty days prior to the date of the election.

In the case of multiple districts mailing a single notice, an agreement for cost-sharing shall be made by the 40<sup>th</sup> day.

C.R.S. § 1-7-905(2)

For coordinated elections, the county clerk and recorder shall be responsible for placing the ballot issue notices received from the various political subdivisions participating in the election in the proper order in the ballot issue packet.

C.R.S. § 1-7-905(1), SOS Election Rule 4

**\*\*Note:** The Clerk & Recorder may not be aware that Special Districts are required to automatically send mail ballots to property owners residing outside the District and/or County, but are nevertheless eligible electors. Districts are encouraged to address this issue in their Intergovernmental Agreement (IGA) with the County.

Colorado Constitution, Article X, Section 20,

C.R.S. § 1-7-906; 1-7-907; 1-13.5-503(2)

### **What happens to the pro/con comments received for a TABOR ballot issue?**

All comments filed in writing shall be received and kept on file with the designated election official for the political subdivision submitting the ballot issue. However, only those filed by persons eligible to vote in the political subdivision submitting the ballot issue to its electors must be summarized in the ballot issue notice. The filed comments shall be retained by the designated election official as election records.

To be summarized in the ballot issue notice, the comments shall address a specific ballot issue and shall include a signature and an address where the signor is registered

to vote and shall be filed with the designated election official for the political subdivision...

Since section (3)(b)(v) of (TABOR) of the state constitution requires that comments pertaining to a ballot issue be filed by forty-five days before the election and since such day is always a Saturday, all comments shall be filed by the end of the business day on the Friday before the forty-fifth day before the election.

C.R.S. § 1-7-901, 1-13.5-503

### **Who prepares the pro/con comments?**

For referred measures, the DEO shall summarize the filed comments in favor of and in opposition to the ballot issue for the ballot issue notice.

If no comments are filed in opposition to or in support of a ballot issue, the designated election official shall not prepare any summaries and shall state substantially the following in the ballot issue notice where the summary or summaries would appear: "No comments were filed by the constitutional deadline."

C.R.S. § 1-7-903, 1-13.5-503

### **Is there an extra notice for the pro/con comments?**

No, there is no legal requirement to inform the public of the need to file pro or con statements by the 45<sup>th</sup> day preceding the election.

### **Who prepares the fiscal information required in the TABOR notice?**

A governing body submitting a referred measure, or its designee, shall be responsible for providing to its designated election official the fiscal information that must be included in the ballot issue notice.

C.R.S. § 1-7-902, 1-13.5-503

The person preparing this information should be an experienced professional.

### **What is the form of the TABOR notice?**

The ballot issue notice must begin with the words "All registered voters", regardless of whether the electors of the political subdivision must be registered electors to be eligible to vote in the election, and ends at the conclusion of the summary of comments. Information concerning procedure for a mail ballot election, ballot, polling place, or other information included with the ballot issue notice prior to the words "All registered voters" or after the conclusion of the summary of comments are not deemed to be part of the ballot issue notice. (See section 20 of article X of the state constitution for the financial information that must be included in the body of the notice.)

Ballot issue notices are not election materials that must be provided in a language other than English.

C.R.S. § 1-7-905.5

**What is the additional notice to create debt/financial obligation-related ballot issues?**

Specifically for debt or other financial obligation, this is something that is either posted on the district’s website or in the chief administrative office of the district, if the district does not maintain a website. This notice provided at least 20 days prior to the election date and is in addition to other notices.

See referenced statutes for specifics.

C.R.S. § 1-7-908, 1-13.5-503(2)

***E-FILING***

**What is E-filing?**

Local governments can electronically file (e-file) statutorily required documents with the DLG in the Department of Local Affairs. E-filing is a convenient and secure alternative to mailing required filings.

**How do I set up an E-filing Account?**

To set up an E-filing Account, please click here: [e-filing user ID request form](#)

Local governments are allowed only one account for their organization (with the exception of counties and municipalities).

**What election and director-related materials must be filed with DLG?**

<b>What</b>	<b>When</b>	<b>Items Needed (in a single PDF)</b>
Regular or Special Election Results <b>(Held)</b>  C.R.S. 1-13.5-1305(1)	Within 14 days from the election date	<ul style="list-style-type: none"> <li>• Certificate of Election Results (<a href="#">SD-25</a>)</li> <li>• Ballot Language</li> </ul>
Regular or Special Election Results <b>(Cancelled)</b>  C.R.S. 1-11-103(3)	Within 30 days from the election date	<ul style="list-style-type: none"> <li>• Notice of Cancellation (<a href="#">SD-11</a> or newspaper clipping)</li> <li>• Board Resolution (<a href="#">SD-12</a> or <a href="#">SD-5</a>)</li> </ul>

<p>Director Oaths <b>(Elected/Re-elected)</b></p> <p>C.R.S. 32-1-901</p>	<p>Upon Occurrence</p>	<ul style="list-style-type: none"> <li>• Oath (<a href="#">SD-1</a>) Oaths for cancelled elections must be taken after the date of the election: Any oath taken prior to that (immediately after the election is cancelled, for example) is invalid.</li> <li>• Bond</li> </ul> <p>*Important: Election results must be e-filed before filing elected/re-elected directors' oath and bond.</p>
<p>Director Oaths <b>(Appointed)</b></p> <p>C.R.S. 32-1-901, 32-1-905(3)</p>	<p>Upon Occurrence</p>	<ul style="list-style-type: none"> <li>• Oath (<a href="#">SD-1</a>)</li> <li>• Bond</li> <li>• Notice of Appointment (<a href="#">SD-2</a>)</li> </ul>