
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

Department of Local Affairs
1313 Sherman St., Rm 521
Denver CO 80203
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www.dola.colorado.gov/sd-elections

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INTRODUCTION

The following document is intended to offer information about Title 32, Article 1, special district elections to the general public and as a guide to special districts in the conduct of elections. There are other types of special districts to which some or all of these FAQs may or may not apply. Special districts that are not explicitly listed in Title 32, Article 1, should use caution in applying any of the following to the conduct of their elections.

Title 32, Article 1 special districts include the following:

Metropolitan		Fire Protection	
Ambulance	Health Service		Mental Health
Water	Sanitation		Water & Sanitation
Park & Recreation	Health Assurance		Tunnel

These FAQs serve as a supplement to the DLG’s *Special District Election Manual*. The *Manual* is provided to Title 32, Article 1, districts to assist in the conduct of the regular election held in May of even-numbered years.

These FAQs are not meant to be read cover to cover, but are categorized according to issues that have arisen over multiple elections. For more general elections terminology, consult the *Elections Quick Glossary*.

To assist users, the answer to each question in this FAQs document includes a reference to the relevant Colorado Revised Statute (C.R.S.), the State Constitution section, attorney general opinion or Secretary of State (SOS) Election Rule.

The relevant statutes and TABOR are found in the Election Manual at dola.colorado.gov under the “Election Manual” dropdown 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 Rules are available at the Secretary of State’s website (www.sos.state.co.us).

While the Division of Local Government makes every effort to ensure that the information in these assistance publications is current, users must be certain to use the most current versions of the referenced sources. Links to Department websites outside DOLA in particular are outside our control, and change frequently. Furthermore, districts are urged to consult with legal counsel concerning the conduct of elections.

For additional special district technical assistance publications go to: www.dola.colorado.gov/sd-elections/, click on the sub-link to **Special District Election Forms**.

For questions or comments concerning this document, please call: (303) 864-7720.

ADMINISTRATION

What are Title 32, Article 1 special districts?

Districts organized as providing services explicitly described in C.R.S. § 32-1-301(2)(a).

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 four-year terms. In addition, there must be a four-year time gap before a previously elected board member can again run for a full four-year 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.

Colorado State Constitution - Article XVIII, Section 11

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

No. Term limits only apply to *full* four-year 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 at the same time?

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 is the term of office for a special district board member?

The basic term of office is four years. A two-year term occurs either during an organizational election (to stagger a board) or when a four-year board position becomes vacant prior to the self-nomination date in the second year of that four-year term. Because appointments are valid only until the next regular election, a remaining balance to the original term, it will be for two years. Therefore, the position to be filled by election will be for a two-year term. A two-year term should be rare.

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

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

Each director, within 30 days after his or her election or appointment to fill a vacancy, except for good cause shown, shall appear before an officer authorized to administer oaths and take an oath. When an election is cancelled, each director who was declared elected shall take the oath required within thirty days ***after the date of the regular election***, except for good cause shown. The oath may be administered by the clerk and recorder, by any person authorized to administer oaths in the state (***i.e. notaries***), or by the chairman of the board and shall be filed with the clerk of the district court, the county clerk, and the DLG.

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

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 district, in an amount determined by the board of not less than \$1,000 each, 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

*****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).***

Colorado Constitution - Article XII, Section 9; C.R.S. § 32-1-901; 32-1-902(2)

What happens if a director fails to take an oath?

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).

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.

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, payable not to exceed \$100 per meeting attended.

C.R.S. § 32-1-902(3)(a)

A study sessions may be considered a board meeting

Special meetings include study sessions at which a quorum of the board is in attendance and notice of the meetings has been given in accordance with subsection (2) of this section or section 24-6-402 (2)(c), and at which information is presented but no official action can be taken by the board.

C.R.S. §32-1-903(1)

How is the board of directors organized?

After taking oaths and filing (oaths and) bonds, 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?

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 \$5000, 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?

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;
- h) If the person who was duly elected or appointed dies during his term of office.

C.R.S. § 32-1-905 (1)

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

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)

ELECTIONS GENERALLY

Regular and Special Election Dates:

	February	May	October	November	December
Ballot Questions (not \$'s)	M/P	M/P	M/P	P ¹ /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

¹Special District formation elections are set by court order. An organizational election may be conducted as a polling place election in any November if there are Ballot Issues being asked.

Are district elections “nonpartisan” elections?

Yes. District elections are nonpartisan, meaning that there are no political party affiliations identified with any candidate.

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

What is a regular special district election?

The election on the Tuesday succeeding the first Monday of May in every even-numbered year, held for the purpose of electing members to the boards of special districts and for submission of other public issues/questions, if any.

C.R.S. § 32-1-103(17); 1-13.5-111(2)

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), October, or December.

Ballot **issue** elections – elections held under Article X, Section 20 of the state constitution (a.k.a. “**TABOR**“ elections) – may be held only in a state general election (November of even-numbered years), the special district’s biennial regular election (May even-numbered years), 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?

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 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? They *must* meet & confer.

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.”

There is nothing prohibiting an election judge from serving more than one district; the districts should consider the logistics of such a configuration. But it is more likely that sharing a polling place for the convenience of voters is practical.

C.R.S. § 1-13.5-504(3)

Special districts may hold joint regular elections, and those elections are not considered coordinated elections.

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 clerk & recorder).

C.R.S. § 1-13.5-111(4)

In what manner may elections be conducted?

District elections may be conducted as “polling place elections” or as “mail ballot elections.” However, special elections conducted during November may be coordinated with the County Clerk & Recorder(s). See section on Mail Ballot Elections ▼ below.

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 in accordance with the provisions of Article 13.5, part 11 of title 1, C.R.S. in any November or regular election in May of even numbered years.

Ergo, a TABOR election that *coincides with a regular election in May* is only to be conducted as a mail ballot election.

Who conducts a special district 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)

Can the DEO appoint an assistant or deputy?

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)

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.

C.R.S. § 1-13.5-103(2)

Who is eligible to vote in a special district election?

An eligible elector is a **person** who, at the designated time or event, is registered to vote in Colorado, **and**:

- Who is a resident of the special district or the area to be included in the special district; **or**
- Who, or whose spouse or civil union partner, owns taxable real or personal property situated within the boundaries of the special district or the area to be included in the special district, whether said person resides within the district or not.
- 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.
- 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. Inquiries regarding whether a property is listed as a ‘non-entity’ should be discussed with the local County Assessor’s Office on the property in question. Certain governments, such as PIDs (C.R.S. 30-20-503(1)) will clearly state the manner in which a non-natural person may cast a vote if this is a possibility; this exists in neither Title 1, Article 13.5 nor Title 32, Article 1.

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 Election Code

and who resides within or is eligible to vote in the jurisdiction of the political subdivision calling the election.

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)

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)

Do severed mineral rights, including natural gas, constitute taxable real and personal property?

Yes.

C.R.S. § 39-1-102(14)

Can someone who owns severed mineral rights, including natural gas, vote in a special district election?

Yes.

C.R.S. § 39-1-102(14)

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

If the property deed as recorded in the office of the county clerk and recorder or tax assessor, includes the name of the condominium owner, (not a corporation, partnership, trust, etc.) and that individual person is registered to vote in Colorado, they may vote.

C.R.S. § 32-1-103(5)

What is a "registered voters' list"?

The list of resident eligible electors obtained from the Clerk & Recorder.

The district DEO must order a registered voters' list from the county clerk and recorder(s) no later than the 40th 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.

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 district.

C.R.S. § 1-13.5-203

What is a "property owner's list"?

The list of property owners that may potentially be eligible electors from the Assessor.

The district DEO must order a property owners' list from the county assessor(s) no later than the 40th 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

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

People becoming eligible electors after the last lists are received should be very rare, especially for May regular elections. If this occurs, the voter self-affirmation is required.

C.R.S. § 1-13.5-605(2)(a).

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

No earlier than January 1 and no later than the normal close of business on the sixty-seventh day 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 67th day before an election.

C.R.S. § 1-13.5-303

IF THE ELECTION IS NOT CANCELLED (CANDIDATES): 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).

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.

This duty is generally considered the responsibility of the candidate.

C.R.S. § 1-45-110, C.R.S. §1-45-109(1)(a)(II); SOS CPF Rule16

When and how can an election be cancelled?

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 63rd day before the election, 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)

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**.

C.R.S. §1-13.5-513(3)

No election may be cancelled in part, except the rare case where a district is able to cancel a director election but has a vote for inclusion because the inclusion election actually takes place outside of district boundaries, with a different electorate.

C.R.S. § 1-13.5-513(4)

Notice of Cancellation

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 the division of local government. 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 the division of local government within 30 days after the election by **sending the division a notice and a copy of the board resolution either appointing the DEO & providing the ability to cancel or a formal board cancellation**.

Each special district shall register its business address, its telephone number, and the name of a contact person with the division when certifying the results of a district election pursuant to section 1-11-103 C.R.S.

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

When may a candidate withdraw or what happens if someone dies?

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 a technical revision to a ballot issue or question occurs prior to printing the ballots?

The DEO may recertify the ballot if:

(a) a candidate withdraws from a race, and the withdrawal would not change the order that the candidate names appear on the ballot as previously determined by the lot drawing; or

(b) 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)

What if 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)

Undefined is what to do in the case of a technical revision that is not caught until after the ballots are printed. If this occurs, the assumption is it becomes a legal problem.

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 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 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 1-11-104(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”. 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 an issue, candidate, etc.?

No...political subdivision of the state shall make any contribution in 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)?

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 of Election?

(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 does a person become a candidate?

Special district candidates do not circulate a petition to be nominated, they self-nominate.

No earlier than January 1, and no later than the close of business on the sixty-seventh (67) day before the date of the 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 as a witness to the signature of the candidate.

On the date of signing the self-nomination and acceptance form or letter, a candidate for director shall be an eligible elector of the special district. See

“Elections Generally” in this document for information on who is an eligible elector.

C.R.S. § 1-13.5-303

How does a person become a write-in candidate?

A person who wishes to become a write-in candidate for an office in an election shall file an affidavit of intent stating that he or she desires the office and is qualified to assume its duties if elected. The affidavit shall be filed with the designated election official no later than the close of business on the 64th day before the election.

C.R.S. § 1-13.5-305

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?

In statute, the polling place 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.

C.R.S. § 1-13.5-504(2),(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 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. 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. § 1-13.5-502(3), 1-5-106

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.

How do you order candidates, ballot issues, and ballot questions on a ballot?

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

C.R.S. § 1-13.5-902(7)

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

The names must be arranged by lot (e.g., putting all the names in a hat and having them drawn out by the designated election official) 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?

The designated election official 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.

C.R.S. § 1-13.5-902(1)

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.

When must the ballot be certified?

Ballot content must be certified no later than 60 days prior to the election.

C.R.S. § 1-13.5-511

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, the political subdivision should contract with a print vendor and have the ballot packets printed.

Note: The form of paper ballots is described in detail in section 1-13.5-902(8)(b). 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 (part 11) (1-13.5-902(8))

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 15th 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 pursuant to this article without regard to party affiliation.

C.R.S. § 1-13.5-401(1)

What would disqualify someone from serving as an election judge?

NEITHER a current candidate for director nor any immediate family member to the 2nd 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?

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.

Service as an election judge shall not be considered employment pursuant to articles 70 to 82 of title 8, C.R.S.

*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. The Division recommends contacting the local county clerk & recorder for wage comparison.

C.R.S. § 1-6-115

CONDUCT OF ELECTIONS

How does an eligible elector secure a ballot at a special district election?

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 (pollbook), the elector shall be allowed to enter the immediate voting area.

C.R.S. § 1-13.5-605(1)

If an elector's name does *not* show up on either the registered or property owners lists, the elector is 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)

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?

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, the judge in charge of the poll book repeat the name of the elector, and the name and number on the ballot of each eligible elector voting must be entered in regular succession under the headings in the pollbook. The judge will initial the stubs on the ballot and separate the ballot from the stub, leaving the duplicate stub on the ballot that is then handed to the voter.

C.R.S. § 1-7-110

If the elector does not appear in the poll book, the self-affirmation in 1-13.5-605(2) is given.

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

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.

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

What are spoiled ballots?

If a voter spoils a ballot, that is 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 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 the 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)

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, 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

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
(Formerly known as *mail-in* 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 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 orally 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.

The application for absentee ballot shall be personally signed by 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)

How does the registration verification of an absentee voter occur?

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?

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?

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?

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)

How may an elector obtain an emergency absentee ballot?

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 voters' 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 12-36-106 (5), 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

Who tracks permanent absentee applicants for future elections?

Each district must keep a record of permanent absentee voters.

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 a mail-in 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

UOCAVA

What is UOCAVA?

Uniform and Overseas Citizens Absentee Voting Act, which is a federal law. During the legislative process for HB14-1164, the state version, Article 8.3 of Title 1, added special districts to the list of local governments that are covered by the law.

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?

Only resident voters who reside in the district receive UOCAVA ballots. Meaning property ownership is no longer a qualifier for UOCAVA voters; only the Clerk & Recorder's registered voters list is necessary for finding UOCAVA voters. Note that this provision appears only in the mail ballot section of the Local Government Election Code.

When and how are UOCAVA ballots sent?

UOCAVA ballots are sent at 45 days out and there are differing types of ballot delivery, including electronic, fax, and mail. This differs significantly from both mail ballot and polling place elections.

MAIL BALLOT ELECTIONS

What is an independent mail ballot election?

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.

When are mail ballot elections required?

Ballot issue elections – 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 & recorder. Such “TABOR” elections may only occur in November or on the May regular election date.

C.R.S. § 1-13.5-111

What is the process for conducting a mail ballot election?

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)

What makes up a mail ballot packet?

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

C.R.S. § 1-13.5-1102(2)

What is the return envelope?

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

The requirement of a removable flap covering the signature at 1-13.5-1105(4)(c)(III) was repealed.

C.R.S. § 1-13.5-1102(4)

What is the secrecy envelope/secrecy sleeve?

"Secrecy envelope" means the envelope or sleeve used for an independent mail ballot election that contains the eligible elector's ballot for the election and that is designed to conceal and maintain the confidentiality of the elector's vote page until the counting of votes for that particular election.

C.R.S. §1-13.5-1102(5)

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)

When does a district send its mail ballots?

A special district conducting an independent mail ballot election sends out its ballots no sooner than 22 days before an election date, and no later than 15 days preceding an election date. [These are the regular mail ballots.]

C.R.S. § 1-13.5-107(3)(a)(I)

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 by the district in their mail ballot plan; there they may drop off their ballot.

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)

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

The office designated in the mail ballot plan shall be made available and stocked with (extra) mail ballots for at least 22 days prior to election day.

C.R.S. § 1-13.5-1105

Are there election judges in a mail ballot election?

Yes. The election officials at the mail ballot counting place shall receive and prepare mail ballots delivered and turned over to them by the election judges for counting. 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

WATCHERS

What is a watcher?

Each candidate for office, or interested party in case of a ballot issue or ballot question, at a local government election is entitled to appoint an eligible elector to act on his or her behalf in every polling place in which he or she is a candidate or in which the issue or question is on the ballot.

The designated election official may, by lot, reduce the number of watchers to one for and one against the ballot issue or ballot question for each location to be watched.

C.R.S. § 1-13.5-602(1)

Who may be a watcher?

Watchers are eligible electors, 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)

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.

C.R.S. § 1-13.5-602(1)(c)

Limitation of watchers?

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)

However, a watcher **may** challenge a person's right to vote.

What happens 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

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

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 local government who is present.

C.R.S. § 1-13.5-1202(2)

How is a challenge presented?

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

CERTIFICATES AND ABSTRACTS OF ELECTION

What is the Judges' "Unofficial Abstract"?

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. The abstract may be removed at any time forty-eight hours after the polls close.

C.R.S. § 1-13.5-615

What is the Election Judges' Certificate (of election returns)?

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

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

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)

What is given to the newly elected/re-elected directors?

The DEO shall make and transmit to each of the persons thereby declared to be elected a certificate of the person's election. Districts may do something more ornate, if they like.

C.R.S. § 1-13.5-1305(2)

What entities receive copies of the Certificate of Election Results?

The DEO shall file a copy of the certificate with the division of local government 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.

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 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)

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 is an election controversy?

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 that 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. And,

C.R.S. § 32-1-804(1)

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. As an appointed extension of the board, the DEO will generally operate independently.

What are the causes of contest of a candidate election?

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

- The candidate elected is not eligible to hold the office for which elected.
- Illegal votes were received or legal votes rejected at the polls in sufficient numbers to change the result of the election.
- 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.
- An election judge, canvass board, or member of a canvass board has committed malconduct, fraud, or corruption that changed the result of the election.
- For **any reason**, another candidate was legally elected to the office.

C.R.S. § 1-13.5-1401

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

The result of any election to determine a ballot issue or a ballot question may be contested on any of the following grounds:

- Illegal votes were received or legal votes were rejected at the polls in sufficient numbers to change the results of the election.
- 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.

- An election judge, canvass board, or member of a canvass board has committed misconduct, fraud, or corruption that changed the result of the election.

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 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 and 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

ELECTION OFFENSES

What do you do if you believe an election offense has occurred?

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.

ELECTIONEERING: §1-13-714, 1-5-105; “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.”

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

C.R.S. §1-13.5-1601, 1-13-101

RECALL PROCESS

SB14-158 directed special districts to use the municipal election code at Title 31, Article 4, Part 5 for its recall elections, and to supplant special district appropriate titles for municipal ones.

What are the limitations on recalling an elected official?

Any director elected to the board of any special district who has actually held office for at least six months after election or reelection may be recalled from office by the eligible electors of the special district.

C.R.S. § 32-1-906

After one recall petition and election, no further petition shall be filed against the same officer during the term for which the officer was elected, unless the petitioners signing the petition equal 50% of all ballots cast for that office at the last preceding regular election.

C.R.S. § 31-4-505(2)

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. Any recall shall be governed by the procedures set forth in part 5 of article 4 of title 31, C.R.S.

C.R.S. § 32-1-906(1)(a)

With whom is the petition filed?

A petition containing the requisite number of signatures under paragraph (d) of this subsection (1) shall be filed in the office of the DEO, or if none is designated, then the secretary of the local government demanding an election of a successor to the officer named in the petition.

C.R.S. § 31-4-502(1)(a)(I)

What should the petition include?

Each petition shall designate by name and address not less than three nor more than five persons (“the committee”), who shall represent the signers.

The petition shall indicate the name of (the district) and the name of the officer sought to be recalled. The petition shall include the name of only one person to be recalled. The petition shall contain a general statement, consisting of two hundred words or less, stating the ground or grounds on which the recall is sought. The statement is for the information of the electors who shall be the sole and exclusive judges of the legality, reasonableness, and sufficiency of the ground or grounds assigned for the recall. The ground or grounds shall not be open to review.

See Section 31-4-502 for more information about petition content.

C.R.S. § 31-4-502

Who may circulate the recall petition?

No person shall circulate a recall petition unless the person is at least 18 years of age.

C.R.S. § 31-4-503(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.

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

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

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

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)?

This is the notice required by section 20 (3) (b) of article X of the state constitution to be 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 the constitution for the details required of the notice.)

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

What happens to the 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 20(3)(b)(v) of article X 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 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.

Who prepares the written comments?

For referred measures, the designated election official 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."

Transmittal of notices

Even if a special district is conducting a mail ballot election in November independently (not as part of a coordinated election) pursuant to section 1-7-116(1), the DEO must prepare and deliver to the county clerk and recorder for the county or counties in which the district is located no later than forty-two days before the election the full text of any required ballot notices.

C.R.S. § 1-7-904, 1-13.5-503

How are the TABOR notices prepared?

For coordinated November 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.

The designated election officials of overlapping political subdivisions conducting an election other than in November shall confer concerning the preparation of the ballot issue notice and packet no later than forty days prior to the date of the election.

C.R.S. § 1-7-905, 1-13.5-503

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 are the mailing requirements of the TABOR notices?

For coordinated and independent mail ballot elections, the county clerk and recorder as coordinated election official (depending on IGA) or district DEO shall mail the ballot issue notice packet to each address of one or more active registered electors who reside in the county or portions of the county in which registered voters of those districts submitting ballot issues reside.

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

****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)