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Report to the Colorado General Assembly:

**PROGRESS REPORT ON
COLORADO ELECTION
LAW REVISION**



COLORADO LEGISLATIVE COUNCIL

RESEARCH PUBLICATION NO. 57

DECEMBER, 1961

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OF THE
COLORADO GENERAL ASSEMBLY

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

During the sessions, the emphasis is on supplying legislators, on individual request, with personal memoranda, providing them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

COLORADO ELECTION LAW REVISION
A PROGRESS REPORT

LEGISLATIVE COUNCIL
REPORT TO THE
COLORADO GENERAL ASSEMBLY

Research Publication No. 57
December, 1961

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LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL
DENVER 2, COLORADO
ACOMA 2-9911 - EXTENSION 2285

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REP. M. R. DDUGLASS
REP. ELMER A. JOHNSON
REP. JOHN L. KANE
REP. C. P. LAMB
REP. GUY POE

December 1, 1961

To Members of the Forty-third Colorado General Assembly:

As directed by House Joint Resolution No. 23, 1961 regular session, the Legislative Council submits the accompanying progress report and recommendations prepared by the committee appointed to consider a general revision of the election laws of this state.

This report was accepted by the Legislative Council at its meeting on November 30, 1961, for transmission to the Forty-third General Assembly, and the Governor has been requested to include the changes recommended among the items for legislative consideration during the second regular session.

Respectfully submitted,



James E. Donnelly
Chairman

COLORADO GENERAL ASSEMBLY



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LEGISLATIVE COUNCIL

ROOM 341, STATE CAPITOL
DENVER 2, COLORADO
ACOMA 2-9911 - EXTENSION 2285

November 20, 1961

SPEAKER ALBERT J. TOMSIC
REP. RUTH B. CLARK
REP. M. R. DOUGLASS
REP. ELMER A. JOHNSON
REP. JOHN L. KANE
REP. C. P. LAMB
REP. GUY PDE

Senator James E. Donnelly, Chairman
Colorado Legislative Council
Room 341, State Capitol
Denver 2, Colorado

Dear Mr. Chairman:

In accordance with the terms of House Joint Resolution No. 23, 1961 regular session, the Committee on Election Laws is submitting the accompanying report of progress for consideration by the Council and for possible transmission to the General Assembly. Its final report, of course, will not be completed until next year.

The committee's report includes a review of its activities during 1961 and the status of its over-all assignment, i.e., a general revision of the election laws of this state. In addition, the committee has made specific recommendations for action by the Forty-third General Assembly at its second regular session. If the committee's recommendations meet with the approval of the Council, we would recommend further that the Council request the Governor that these suggestions be included by him for action during the 1962 session and that a sufficient number of copies of the report be duplicated for the members of the General Assembly and other interested persons.

Respectfully submitted,

Ranger Rogers, Chairman
Committee on Election Laws

FOREWORD

The Legislative Council was directed by House Joint Resolution No. 23, 1961 regular session, to revise the Colorado election laws. The resolution further directed that a report of progress be submitted to the Second Regular Session of the 43rd General Assembly.

To carry out this assignment, the following committee was appointed: Senator Ranger Rogers, Chairman; Senator James W. Mowbray, Vice chairman; Senators Robert E. Allen and Earl Wolvington; and Representatives Jean K. Bain, Raymond H. Black, Charles D. Byrne, Ben Klein, Vincent Massari, M. H. Morgan, and Albert J. Tomsic.

Most of the staff work thus far has been devoted to preparing a general revision of the election laws of this state. It is anticipated that suggested revisions and comments for the election law articles will be ready for consideration by the committee and other interested persons in early 1962.

In connection with this undertaking, the staff has been ably assisted by Mr. Ken Russell of the Secretary of State's Office, Mr. Don Nicholson of the Denver Election Commission, Miss Clair T. Sippel of the Legislative Reference Office, and many county clerks throughout the state.

November 30, 1961

Lyle C. Kyle
Director

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PROGRESS REPORT BY COMMITTEE ON ELECTION LAWS

House Joint Resolution No. 23, 1961 regular session, directed that a thorough study be made of the Colorado election laws, including any laws not specifically relating to elections but which are affected thereby, with a view to improving and revising all of said laws. Further, the resolution provided that the Legislative Council should report so much of its findings and recommendations to the Second Regular Session of the Forty-third General Assembly, including proposed legislation, as it may have completed, with a final report to be submitted to the Forty-fourth General Assembly. Consequently, the committee appointed by the Legislative Council to carry out a study of our election laws has prepared this report of progress for possible consideration and use in the 1962 regular session.

The first meeting of the committee, which was held June 12, 1961, was devoted to arriving at committee procedure to effectuate its assignment and to conferring with a number of county clerks, the secretary of the Denver Election Commission, and the local governmental affairs analyst of the Colorado Public Expenditure Council on specific problems encountered by them under our election laws. The committee decided to concentrate its efforts during 1961 on those problems where recommendations could be made in time for consideration at the 1962 session and to attempt to complete a general revision of the election laws during 1962 for consideration at the 1963 session.

A number of specific problems or problem areas were reported to the committee at its first meeting. Among these were suggested changes in five general areas: (1) Uniform definitions for words and phrases; (2) The standardization of notices of elections, publications, and sample ballots; (3) A reduction in the specified or limiting instructions in the law regarding election procedures; (4) Improved indexing and cross-indexing of the election laws for more rapid access to pertinent information; and (5) Clarification of language in statutes. More specific problems discussed included precinct and rural registration, absentee voting, absentee registration, registration procedure, residence requirements, assistance to disabled voters, "purging" of registration lists, use of voting machines, and the use of data-processing or key-punch machines.

Following this meeting, as instructed by the committee, the chairman sent letters to all county chairmen in each political party seeking information on the problems encountered by them under our election laws as well as suggested solutions to those problems. While the response to these letters was not overwhelming, nevertheless the committee noted good suggestions in the replies received, and these suggestions plus some of the changes recommended previously formed the agenda for the committee's second meeting which was held October 13, 1961.

Some 20 recommended changes were considered by the committee during its October 13-meeting. For several of these recommendations the committee agreed that some changes were merited;

however, the committee did not believe that many changes needed to be made in the 1962 session but instead could be incorporated in the committee's general revision which will be prepared for consideration in 1963. On the other hand, a few recommendations were felt to deserve the immediate attention of the General Assembly in its next session prior to the 1962 general election.

In this connection, the committee suggests that the following statutory changes be considered in the Second Regular Session of the Forty-third General Assembly:

Precinct Registration -- The committee believes that precinct registration should be optional at the discretion of the board of county commissioners or election commission and that Section 49-6-3, 1960 Permanent Supplement to 1953 Colorado Revised Statutes, should be amended to so provide. The county clerks report that precinct registration is not warranted in many counties when the cost thereof is compared to the number of voters registered in this manner.

Absentee Registration -- The committee recommends that the absentee registration provision (Section 49-6-15, 1960 Permanent Supplement to 1953 Colorado Revised Statutes) be considered in the 1962 session with a view to restricting the use thereof so as to prevent abuses.

Registration Deadline -- The committee recommends amending Section 49-6-14, 1953 Colorado Revised Statutes, to allow registration up to 20 calendar days prior to an election. The present requirement allows registration up to 15 days prior to an election and officials report that this is too short a time to get ready for the election.

Time for Filing Statement of Campaign Expenses -- At present, Section 49-21-7, 1953 Colorado Revised Statutes, provides that candidates must file a statement of expenses within 30 days after any "public" election. This provision should be changed to "any election except a primary election as provided in 49-4-32."

Challenge of Voters -- The general challenge law should be extended to include questions of registration (Section 49-10-9, 1953 Colorado Revised Statutes) and to require an oath as to registration in addition to the general oath of a challenged voter (Section 49-10-10, 1953 Colorado Revised Statutes). Suggested questions to be added to Section 49-10-9 are: (1) Are you a registered voter in this precinct? (2) If so, when and where did you register?

In addition, county clerks or the election commission should be required to turn over all challenges to the district attorney for investigation and appropriate action within 30 days after the election. Each challenge would be a complaint by the challenger, with reasons given therefor. The challenger, as well as the person challenged, should be required to give oath.

Registration Book Change -- In order to reduce possible confusion resulting from registered electors voting absentee and to promote more efficient administration at the regular polling places, county clerks or the election commission should be required to add a page in the back of the registration book for each precinct on which would be recorded the names of persons whose registration sheets have been removed because they have received absentee ballots. This list would remain in the registration book so that precinct judges could refer to it on election day. It would be in addition to the list delivered to the minority judge of the absent voters' polling place as provided in Section 49-11-2 (4), 1960 Permanent Supplement to 1953 Colorado Revised Statutes.

Earlier Printing of Ballots -- The committee recommends amending the statutory time limits affecting the times for holding party assemblies, for accepting nominations, and for certification of candidates by the

Secretary of State so as to permit printing of official ballots one week earlier. Under present time limits, the official ballots cannot be printed early enough to ensure sufficient time for all absentee voters to receive, vote, and return their ballots.

Deadline for Absentee Ballot Applications --

The deadline in Section 49-11-2 (1), 1960 Permanent Supplement to 1953 Colorado Revised Statutes, for filing applications for absentee ballots should be changed from 12:00 noon on Saturday to the close of business on Friday preceding the election. Such a change will relieve the county clerks in our mountainous counties from some of the difficulties now experienced in having the registration books delivered to all precincts within the county prior to 7:00 a.m. on election day.

As its final recommendation at this time, the committee believes that the General Assembly should submit to the people a constitutional amendment which would provide that residence requirements for persons voting for President and Vice President of the United States be established as provided by law rather than

the present constitutional provision which states that an elector in Colorado must "have resided in the state twelve months immediately preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct, such time as may be prescribed by law." If such an amendment were adopted, the General Assembly could provide lesser requirements for persons voting for these two national officers. At the same time, specific language should be incorporated in the constitution establishing registration as a requisite to voting in order that there would be no question on this point.

In concluding this progress report, the committee would like to point out that the staff of the Legislative Council has reviewed the first five articles of the election law chapter and has prepared suggested revisions and clarifications for committee consideration. It is hoped that this process can be completed for all articles by early Spring in order that the committee can begin concentrated deliberations at that time on a complete recodification of all the general election laws for submission to the Forty-fourth General Assembly in January, 1963.

SENATE CONCURRENT RESOLUTION NO.

BY SENATORS

SUBMITTING TO THE QUALIFIED ELECTORS OF THE STATE OF COLORADO AN AMENDMENT TO SECTION 1 OF ARTICLE VII OF THE CONSTITUTION OF THE STATE OF COLORADO, RELATING TO QUALIFICATIONS OF VOTERS AT ELECTIONS, AND PROVIDING THAT THE GENERAL ASSEMBLY MAY BY LAW EXTEND TO CITIZENS OF THE UNITED STATES WHO HAVE RESIDED IN COLORADO LESS THAN ONE YEAR, THE RIGHT TO VOTE FOR PRESIDENTIAL AND VICE-PRESIDENTIAL ELECTORS.

Be It Resolved by the Senate of the Forty-third General Assembly of the State of Colorado, the House of Representatives concurring herein:

SECTION 1. At the next general election for members of the general assembly, there shall be submitted to the qualified electors of the state of Colorado, for their approval or rejection, the following amendment to the constitution of the state of Colorado, to-wit:

Section 1 of article VII of the constitution of the state of Colorado is hereby amended to read:

Section 1. Every citizen of the United States who shall have attained the age of twenty-one years, shall have resided in this state not less than one year next preceding the election at which he offers to vote, and in the county, city, town, ward, or precinct such time as may be prescribed by law, and who

shall have been duly registered as a voter if required by law, shall be qualified to vote in any election; provided, that the general assembly may by law extend to citizens of the United States who have resided in this state less than one year, the right to vote for presidential and vice-presidential electors.

SECTION 2. Each elector voting at said election and desirous of voting for or against the said amendment shall cast his vote as provided by law either "Yes" or "No" on the proposition: "An amendment to section 1 of article VII of the constitution of the state of Colorado, relating to qualifications of voters at elections, and providing that the general assembly may by law extend to citizens of the United States who have resided in Colorado less than one year, the right to vote for presidential and vice-presidential electors."

SECTION 3. The votes cast for the adoption or rejection of said amendment shall be canvassed and the result determined in the manner provided by law for the canvassing of votes for representatives in Congress, and if a majority of the electors voting on the question shall have voted "Yes", the said amendment shall become a part of the state constitution.

Note to committee: The general qualifications of voters as set forth in the above amendment, especially as to registration of voters, was taken from the new constitution of Hawaii.