Proposed rules to address conflicts and ambiguities in Title 1 after the passage of HB 13-1303

July 8, 2013

Voter Registration and Election Day Registration

- **Issue:** For election day registration, need at least nightly database updates from CDOR, CDOC, and CDPHE.
  - **Solution:** Working on MOAs with those three state agencies, but progress has been minimal.

- **Issue:** If an elector registers to vote between 21 and seven days before the election, that elector won't receive a ballot by mail.
  - **Solution:** Promulgate a rule requiring the county clerk to send these electors a notice by email or regular mail that the applicant is registered to vote but will not receive a ballot by mail and that, if the applicant wishes to vote in the upcoming election, he or she must appear in person at the clerk’s office or a voter service and polling center.

- **Issue:** Municipalities and special districts don’t have access to SCORE. How are counties to provide election day registration for municipal and special district elections that are not coordinated with the county clerk and recorder?
  - **Solution:** Promulgate a rule specifying whether electors must go to the county clerk’s office to register if within 8 days of election day. Likely specify that elector can get a certificate of registration to take back to the municipal or special district DEO. Also, every county with a portion of the special district must provide election day registration.

- **Issue:** The residency requirement was changed from 30 to 22 days for county elections, but was never changed for municipal and special district elections, which still require 30 days’ residency.
  - **Solution:** Promulgate a rule requiring counties to, in a coordinated election, print separate ballots for any municipalities or special districts with which the county coordinated. This will require electors who lived in the city or district for more
than 30 days to vote a separate ballot for each municipality and special district in which they reside. It will also significantly increase printing costs for counties, but we see no other way to give effect to the different eligibility dates.

- **Issue**: Section 1-2-202.5 (7) (c) (II) still requires a voter to be affiliated with a political party for 29 days prior to an election. If a voter registers at a voter service and polling center on election day with a particular party, that voter can’t vote in the primary election.
  
  - **Solution**: None at this time. Maybe promulgate a rule requiring the election judge to register the applicant as unaffiliated and then change the applicant’s registration to the desired political party.

- **Issue**: Section 1-2-217.7 (3) (a) requires a clerk to allow a voter to register at a voter service and polling center for the 15 days before any election. But for every election that is not a general election, voter service and polling centers are only open for eight days before the election.
  
  - **Solution**: None at this time. Likely promulgate a rule that a clerk need only provide registration at a voter service and polling center during the time the center is required to be open.

- **Issue**: If a voter registers at a voter service and polling center without ID, they cannot vote in person, but would be allowed to walk out with a mail ballot. Because the voter did not register by mail, the voter could return the mail ballot without ID. This means the voter voted without providing ID.
  
  - **Solution**: None at this time.

**Establishing Voter Service and Polling Centers and Drop-Off Locations**

- **Issue**: The bill states that all recall elections (even municipal and special district recalls) must be mail ballot elections. The bill also states that all mail ballot elections must have voter service and polling centers and drop off locations. But there is only one formula for establishing these locations. For example: if there is a special district recall, the special district DEO must set up one voter service and polling center for each 30,000 electors in the county, regardless of the size of the special district. This means that any municipal or special district recall election is essentially a full countywide election. The municipal or special district DEO will be forced to coordinate these elections with the county clerk at extremely high costs to the municipality or special district.
  
  - **Solution**: None at this time. Any rule mitigating the costs to municipalities and special districts will necessary be in direct conflict with the law.

- **Issue**: The definition of drop-off location excludes mail boxes maintained at a voter service and polling center “pursuant to section 1-5-102.9 (3) (l).” But subsection (4) of that section requires that “stand-alone drop-off locations” be separate from voter service
and polling centers “with the exception of twenty-four hour secure drop boxes.” So, there are several separate terms: “drop-off location,” “stand-alone drop-off location (both with and without the hyphen),” and “twenty-four hour secure drop boxes,” and it is unclear which are allowed at voter service and polling centers.

- **Solution:** Promulgate a rule requiring counties to establish one drop-off location for each 30,000 electors, except that drop-off locations with 24-hour security camera surveillance may be located at the voter service and polling center. The rule will likely need to cap the amount of drop-off locations at voter service and polling centers so counties don’t try to put them all there.

- **Issue:** For general elections, the bill specifies that counties must provide voter service and polling centers during the 15 days before and on election day, but there is no timetable for providing drop-off locations.

- **Solution:** Promulgate a rule requiring drop-off locations to be available during the time voter service and polling centers are open.

- **Issue:** The bill requires drop-off locations to receive ballots during “reasonable business hours.” Several counties are confused about what this means.

- **Solution:** Promulgate a rule defining reasonable business hours that provides enough flexibility for counties to continue to use school district offices.

**Election Judges and Watchers**

- **Issue:** There is a lot of concern from counties regarding election judges registering voters in SCORE.

- **Solution:** Promulgate a rule stating that only county clerk employees may have access to SCORE at a voter service and polling center.

- **Issue:** Section 1-6-109.5 requires clerks to appoint one supervisor election judge per precinct. This formula would result in hundreds of supervisor judges for some counties.

- **Solution:** None at this time. Perhaps promulgate a rule requiring only one supervisor judge per voter service and polling center.

- **Issue:** For partisan elections, major political parties are entitled to one-half of the appointed supervisor judges. But we currently have three major political parties.

- **Solution:** None at this time. If we promulgate a rule stating that each major party is entitled to its share of supervisor judges, this would require the ACP to have many more judges than they likely will be able to certify to the clerk.
• **Issue:** Section 1-6-111 (8) requires at least two judges of different affiliations to be present at a polling location at all times. This seems to be the case even for nonpartisan elections.
  
  o **Solution:** None at this time.

• **Issue:** The bill seems to allow for only one watcher per party at a voter service and polling center, regardless of the size or amount of activity at the voter service and polling center.
  
  o **Solution:** None at this time. Perhaps promulgate a rule allowing for more watchers.

• **Issue:** With election day registration, it is conceivable that a watcher will be able to listen to or see confidential information when an applicant is registering to vote.
  
  o **Solution:** Promulgate a rule prohibiting watchers from viewing the SCORE screen or listening to an applicant giving confidential information.

**Voting and Counting Process**

• **Issue:** For special district elections, the bill allows a voter’s eligibility to be challenged if the voter is not a civil-union partner of a property owner. But in title 32, a civil-union property owner is not an eligible voter.
  
  o **Solution:** None at this time.

• **Issue:** The bill repealed section 1-7-109, which required election judges to maintain pollbooks. But 1-7-302 still requires a judge to document the name and ballot number of every voter in the pollbook.
  
  o **Solution:** None at this time.

• **Issue:** For some reason, the bill requires an elector with a disability to sign an affirmation stating that they live in the political subdivision and that they have not or will not cast another vote in the election. No other elector is required to sign this affirmation. This requirement is discriminatory.
  
  o **Solution:** None at this time.

• **Issue:** Section 1-5-502 requires the DEO to deliver ballot box keys to an election judge at the voter service and polling center. But section 1-7.5-107.2 (1) requires the DEO to keep the ballot box keys until the ballots go to the counting place.
  
  o **Solution:** None at this time.
• **Issue:** The bill states that all ballots received after 7pm on election day will remain sealed and uncounted. The bill makes no exception for UOCAVA voters, who have until 8 days after the election to return a ballot.

  ○ **Solution:** Promulgate a rule exempting UOCAVA ballots from the 7pm deadline.