Steven Ward

Subject: RE: proposed solution to avoid widespread emailing of ballots

From: Marilyn Marks
Sent: Sunday, August 25, 2013 12:39 PM
To: 'Suzanne Staiert'
Subject: proposed solution to avoid widespread emailing of ballots

Suzanne,

Initiating wide-spread email ballot delivery in this recall election seems to create a very risky chaos-creating “solution” to a very small problem.

Using widespread email ballots (one-way or two ways) to deal with a small problem of potentially slow U.S. mail to a few people in getting their absentee ballots, is asking for a major paradigm shift in what will be considered “acceptable practice,” the “new normal” and lead to serious security threats and vulnerabilities in this recall election. The rules proposed and filed with the court are too far-reaching and extreme to take care of a small problem of a few ballots that might get caught up in U.S Mail delays. Voters will point to this recall to say that email balloting is “safe and secure” and should continue in use.

Pueblo is unlikely to see another candidate on the ballot, and Pueblo can start printing tomorrow night, and mailing the absenteees on the 27th, allowing two full weeks for the ballots to be received by the voter by First Class Mail. That is just not a crisis that demands emailing of ballots. (that might not work if they had to mail all the voters with ballot addressing, inserting, sorting, mailing in a commercial bulk mail facility. But this will be a few dozen voters at this point, with more trickling in.)

Some fear that “normal absentee” ballots (someone working out of town or vacationing, etc.) will not arrive by September 9th if mailed by the 3rd by First Class mail in the U.S. (Although 6 days seems more than enough time for the vast majority of U.S.- based mail one way trip. Post Office says 2-3 days. ) The SOS rule 37 “solution” is to adopt widespread emailing of ballots for all the “normal” absenteees as well as “emergency” needs. (But the law only allows email delivery for UOCAVA and emergency replacement ballots.)

I am proposing the following to ease the absentee ballot time crunch and avoid violating numerous laws including the Constitution (secret ballots), HAVA (on voting systems), and statutes on email delivery of ballots.

1. **Shorten the petition verification by one day at SOS through after-hours “all hands” work tomorrow**—Request that candidates voluntarily send an electronic copy of their petition signatures early in the day tomorrow, although they have until 5 p.m. to turn in the official signatures. Get the staff started on PRE-verification work so that during the evening after the official original copy is delivered, the remaining signatures and official copy can be certified before midnight. Therefore the ballot will be certified by midnight on August 26. Protest period to begin on August 27. It appears that only ONE petition of 600 signatures will be submitted. That is not a lot of work. 6 people could certify that in 2 hours.

2. **Shorten the 5 day protest period for nomination signatures by 2 days (with court blessing)**—It seems likely that only one petition for nomination will be filed—Jan Brooks in El Paso County. There will only be 600 signatures required to be verified. Three days (August 27-August 29) is more than enough time for a protest to be launched if there are invalid signatures. With court blessing, the period could be
shortened to August 29, allowing ballots to be printed on August 30. It is likely that Pueblo will have no additional candidate. Pueblo can order printing of ballots on August 26, if true.

3. **Mail absentee ballots by First Class Mail (not Standard Mail).** They should arrive in 1-4 days in almost all U.S. locations. That would give 11 days for delivery if mailed on the 30th or 7 days if mailed on the current schedule without the acceleration of #1 or #2 above. (Recall that the rule allows 8 day delay in the return of absentee ballots if postmarked by election day.)

4. **Do not print unnecessary notice on ballot regarding whether vote on first question vote is required for successor vote to count.** The question posed to the Supreme Court by the Governor on whether the Constitutional provision prohibiting a successor candidate vote to be counted if the voter does not vote on the first question may not be addressed with finality by ballot printing time. While the warning is on the sample ballots as a precaution, it is not required by statute or constitution to be on the ballot. It could be more confusing than not, given the uncertain legal outcome. Do not print this unnecessary and possibly misleading warning on the ballot only to create another legal challenge down the road or delay in printing ballots.

5. **Allow email or overnight mail arrangements for absentee ballots not received by September 9.** If timely-requested absentee ballots are not received in mail by September 9th by out of town recipients, allow those voters, based on sworn oath to submit an email ballot or arrange overnight mail service for paper ballot. (This should happen very rarely.)

6. **Require sworn statement of true medical “emergency” or hardship arising after cut off for absentee ballots before allowing emergency email ballot.** Your have rulemaking authority specifically for this provision of 1303. You can easily define “confinement” etc. to be the same concepts that were present in the former law on true emergencies arising AFTER the absentee ballot cutoff. First choices should be overnight mail or hand delivery of a paper ballot before email delivery and return allowed as a last resort.

Military ballots are already being handled by UOCAVA, so this big crisis about the “out of county” voter who cannot be present at ANY TIME during the FIVE Days of polling place voting (September 5-10)

Please consider as an alternative to email balloting which violates the constitution and the statutes and creates confusion for voters and staff, and creates a dangerous precedent.

Marilyn Marks