Please distribute to the commissioners.

Commissioners,

Please see the following Gazette’s editorial calling for a special session of the legislature to “fix” 1303 before the November election. While they underestimate the problems with 1303 and the time to repair the bill, the idea of a special session to repeal or delay implementation of the bill would be a wise decision given the growing list of issues that will plague the November election.

Please see my letter below to other newspaper editors suggesting that they reinforce the Gazette’s call for a special session. Please consider recommending to the Governor that a special session be called to either delay implementation or repeal 1303 immediately.

Thank you for your consideration.

Marilyn Marks
Citizen Center
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Kudos to Gazette’s editorial board for seeing the election train wrecks coming in November and asking Governor Hickenlooper to call the GA into session to avoid the collisions that will be caused by the premature implementation of HB1303. (Editorial below.) While the Gazette’s view of how long it would take to fix 1303 is far too optimistic, the more elegant solution is a simple quick repeal to get us through November without massive confusion and litigation. We have an election code that was in place before that wasn’t perfect, but it could suffice until the 2014 elections can be improved with new election legislation.

I write to ask you to consider reinforcing the Gazette’s request for a pre-November fix for the unintended election consequences of legislation passed without enough deliberation of the detailed impacts.

The Gazette’s board has seen firsthand a portion of the problems in the BEST run recall county---El Paso, with a track record of professionally run and transparent elections. The election problems in Pueblo that have been hidden from the press and the public are downright frightening. The fixes to the operational and constitutional problems in the bill will take weeks of work,-- even without policy disputes. Voters are faced
with confusing, impossible rules in November with high probabilities of legal challenges and frustration on all sides.

For example, a new voter who wishes to vote in a City Council election on the November coordinated ballot must be a resident of the city for 30 days and registered for 29 days, but may vote on state Amendment 66 with only a 22 day residency period and same day registration --- with both questions on the same ballot. Close elections will see legal challenges on voter residency issues that no one can expect a voter to understand. The voters who have understood that they can vote based on same day registration are going to feel “disenfranchised” when it is explained that it only applies to SOME issues on the ballot, but not to their local city election.

That is just one example among many others that make this law terribly unfriendly to voters, candidates and issue committees. There are also unconstitutional provisions in 1303 that are sure to invite more litigation and possibly invalidated local elections. The least painful solution is a still painful immediate repeal with a “fresh start” in January. It will be less painful than the aftermath of election controversies spilling into next year after the election officials struggle to implement 1303 this fall.

I urge you to consider the Gazette’s recommendation, and also ask Governor Hickenlooper to request a repeal for the sake of voters, candidates, and issue committees on the ballot this fall. I’m sure that the election attorneys across the state will vigorously disagree. They are likely counting on a highly profitable 4th quarter.

Thank you for your consideration.

Marilyn Marks

Gov. Hickenlooper should call special session to fix HB1303

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It's time for Gov. John Hickenlooper to fix a bad bill he signed into law.

Last week's successful recalls did more than remind politicians whom they work for by replacing two powerful senators. Campaigns advocating the recalls also highlighted some of the absurd legislation
sponsored and rushed through by Senate President John Morse, D-Colorado Springs, and Sen. Angela Giron, D-Pueblo.

Among the bad maneuvers was House Bill 1303. The new law undoes traditional checks and balances that have kept elections fair. Gone are assurances that only lawful residents of a jurisdiction get to vote in an election. Before HB1303, only the tinfoil hat crowd worried much about election fraud. Today, with HB1303, it’s a legitimate concern.

The Gazette has long supported Hickenlooper because of his background in small business. We enthusiastically asked voters to elect him when the Republican Party offered no better alternatives. We’re not interested in blaming the governor; we just want him to fix the problem.

With November elections ahead of us, Hickenlooper should seek the assistance of his party and recommend a short special legislative session to rephrase parts of HB1303. It shouldn’t take but a few hours to get this thing right before November brings multiple elections throughout the state. Fixing the law could prevent lawsuits and additional public anxiety.

Unlike the recall, the November elections won’t involve just one Senate district under the watchful eyes of Colorado’s secretary of state and countless political observers. It will include every political jurisdiction in the state and none will be able to watch closely for out-of-bounds voting.

We know the law can be abused, which is obvious to anyone who reads it. Any question about the biggest flaw in HB1303 was eliminated when Jon Caldara, a Boulder resident and president of Colorado’s Independence Institute, cast a blank ballot in the District 11 recall to make a point.

That was a high-profile stunt, and authorities could do nothing to stop it because of HB1303. Even prosecution, which seems difficult given the language of the bill, would not have stopped Caldara’s vote from counting had he actually completed the ballot. Imagine how many special-interest votes could be cast stealthily if election officials can’t even stop an act of civil disobedience committed in broad daylight with cameras rolling. Heck, it wasn’t even real disobedience. Some lawyers argue the law allowed it.

While much of HB1303 is bad, the biggest gripe involves residency.

Traditionally, one had to have roots in a community before voting in it. Not now. The wording below clearly shows that one can show up in a jurisdiction on the day of an election and vote with nothing more than an "intention" of making the place a permanent home. All the bluster about fraud prosecutions means little, given this law:

"If a person moves from one county or precinct in this state to another with the intention of making the new county or precinct a permanent residence, the person is considered to have residence in the county or precinct to which the person moved."

This gives almost any Coloradan - especially those among us who are willing to lie - an easy opportunity to vote in local elections. Want to pass or kill a local school tax? Bring in voters willing to state an "intention" to move. Want to undo a municipal gun law? Ask impassioned gun-rights activists to show up and state their intentions to move. Supporters of Morse and Giron may never know whether out-of-jurisdiction voting hurt their senators, though no good evidence suggests it did.
Even if county officials can prosecute, they have no good means of detecting such activity. If they did, tracking down suspects and prosecuting them - by disproving their intentions beyond reasonable doubt - is a long way around. Even if successful, prosecutions won't undo the damage.

Gov. Hickenlooper and legislators, get together and improve this law before November. Find a way to ensure that only bona fide residents get to vote in local elections.

http://gazette.com/gov.-hickenlooper-should-call-special-session-to-fix-hb1303/article/1506246