

ENROLLED ACT NO. 49, SENATE

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to elections; providing for special mail ballot elections after an election is declared null and void; providing procedures for special mail ballot elections; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 22-16-123 is created to read:

22-16-123. Special mail ballot elections; procedures.

(a) A special mail ballot election, as provided in this section, may be held in response to a determination under W.S. 22-16-122(a).

(b) In a special mail ballot election, official ballots shall be prepared and all other pre-election procedures followed as otherwise provided by law or rules promulgated by the secretary of state, except that special mail ballot packets shall be prepared as follows:

(i) The election official shall mail to each qualified elector entitled to vote in the special mail ballot election, at the last address appearing in the registration records, a special mail ballot packet, which shall be marked "DO NOT FORWARD-ADDRESS CORRECTION REQUESTED," or any other similar statement which is in accordance with United States postal service regulations. Packets shall be mailed not sooner than twenty-five (25) days and not later than fifteen (15) days before an election for elections held in accordance with W.S. 22-16-122(d) or (e). Packets shall be mailed not sooner than forty-five (45) days and not later than forty (40) days before an election for elections held in accordance

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with W.S. 22-16-122(f) unless the court order provides otherwise;

(ii) The ballot or ballot label shall contain the following warning:

WARNING

The criminal laws regulating the conduct of elections contained in chapter 26 of the Wyoming Election Code of 1973, as amended, apply with equal force to elections by mail.

(iii) Not sooner than twenty-five (25) days and not later than 4:00 p.m. on election day for elections held in accordance with W.S. 22-16-122(f), mail ballots shall be made available at the election official's office for voters entitled to vote in the election but whose address has changed or who did not receive their ballot in the mail and for voters allowed by law to register and vote the day of the election;

(iv) A voter may obtain a replacement ballot if the ballot was destroyed, spoiled, lost or for some other reason not received by the voter. In order to obtain a replacement ballot, the voter shall sign a sworn statement specifying the reason for requesting the replacement ballot. The statement shall be presented to the election official no later than 4:00 p.m. on election day. The election official shall keep a record of each replacement ballot issued in accordance with this paragraph. A replacement ballot may be transmitted directly to the applicant at the election official's office or may be mailed to the voter at the address provided in the application. Replacement ballots may be cast no later than 5:00 p.m. on election day;

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(v) Upon receipt of a ballot, the voter shall mark the ballot, sign and complete the return-verification envelope and comply with the instructions provided with the ballot. The voter may return the marked ballot to the election official by United States mail or by depositing the ballot at the office of the election official or the designated depository no later than 5:00 p.m. on election day;

(vi) Once the ballot is returned, it shall not be returned to the voter. The election official shall first qualify the submitted ballot by examining the verification envelope and comparing the information on the envelope to the poll list to determine whether the ballot was submitted by a voter who has not previously voted in the election. If the ballot so qualifies and is otherwise valid, the official shall place a number next to the voter's name in the poll book. The election official shall then open and separate the ballot from the envelope and place the ballot in a ballot box so as to keep the voter's ballot private;

(vii) All deposited ballots shall be counted as provided in this act and rules promulgated by the secretary of state. A special mail ballot shall be valid and counted only if is returned in the return-verification envelope, the affidavit on the envelope is signed by the voter to whom the ballot was issued and the information on the envelope is verified as provided in paragraph (vi) of this subsection. If the election official determines that a voter to whom a replacement ballot has been issued has voted more than once, the official shall only count the first ballot received from that voter;

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(viii) The election official shall provide a minimum of one (1) polling place on the day of election which may be the election official's office and shall be open between the hours of 7:00 a.m. and 7:00 p.m.

(c) If any special mail ballot packet mailed under paragraph (b)(i) of this section to a physical address, not including a post office box, is returned by the postal service, the county clerk, or the secretary of state if the election involves more than one (1) county, shall investigate the validity of the address. If the county clerk or secretary of state determines that the address is not at a location that a voter could inhabit, the county clerk or secretary of state shall remove the address from the registration records until the county clerk or secretary of state receives proof that the address is habitable by a voter.

Section 2. W.S. 22-16-122(d), (e) and by creating a new subsection (f) is amended to read:

22-16-122. Election declared null and void; special election.

(d) The special election shall be held if necessary no later than the third Tuesday after the primary election and may be held by a special mail ballot election as provided in W.S. 22-16-123. Any candidate may appeal the decision of the canvassing board in the same manner as he would contest an election under this act. However, this appeal shall be filed in the district court no later than the first Monday following the meeting of the canvassing board whose decision is being appealed. The special election shall be conducted by the county clerk as nearly as possible in the manner of a primary election, except that registration at the polls shall not be permitted. If

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the election is held as a special mail ballot election, the election shall be held as provided in W.S. 22-16-123.

(e) The special election shall be held if necessary on the third Tuesday after the general election and may be held by a special mail ballot election as provided in W.S. 22-16-123. Not more than fourteen (14) nor less than five (5) days before the special election the county clerk shall publish at least once in a newspaper of general circulation in the county a proclamation setting forth the date of the election, the offices to be filled at the election including the terms of the offices, the number of persons required by law to fill the offices, the requirements for filing statements of campaign receipts and expenditures, and any other pertinent information. The special election shall be conducted by the county clerk as nearly as possible in the manner of a general election. If the election is held as a special mail ballot election, the election shall be held as provided in W.S. 22-16-123.

(f) A court ordered election may be held by special mail ballot election as determined by the county clerk or by the secretary of state if the election involves more than one (1) county.

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Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk