

PETITION TO CONTEST LEGALITY AND/OR CONSTITUTIONALITY OF TEMPORARY/EMERGENCY RULE AMENDMENTS TO RULE 20.5.4 INCLUDING NEW RULES 20.5.4(a) AND 20.5.4 (e); AMENDMENTS TO RULE 21.7.3 INCLUDING A PORTION OF FORMER RULE 21.7.3 WHICH HAS BEEN RE-CODIFIED AS NEW RULE 21.7.3 (a); and ADOPTION OF NEW RULES 21.7.3 (b-e) and 21.7.4 ("Petition")

Petitioner, Jon Dirker, a Colorado citizen and interested person ("Petitioner"), submits this Petition to contest the legality and/or constitutionality of temporary/rule amendments to Rule 20.5.4 including New Rules 20.5.4(a) and 20.5.4(e), amendments to rule 21.7.3 including a portion of former Rule 21.7.3 which has been re-codified as New rule 21.7.3 (a) and adoption of New Rules 21.7.3 (b-e) and 21.7.4 (hereafter collectively referred to as the "June 17, 2021 SOS Emergency Rules").

APPLICABLE LAW

On June 17, 2021, the Colorado Office of the Secretary of State ("SOS") adopted the June 17, 2021 SOS Emergency Rules.

Pursuant to Section 24-4-103 (6)(a) "a temporary or emergency rule may be adopted without compliance with the procedures prescribed in subsection (4) of this section and with less than the twenty days' notice prescribed in subsection (3) of this section, or where circumstances imperatively require, without notice, *only if the agency finds that immediate adoption of the rule is imperatively necessary to comply with a state or federal law or federal regulation or for the preservation of public health, safety, or welfare and compliance with the requirements of this section would be contrary to the public interest and makes such finding on the record.* Such findings and a statement of the reasons for the action shall be published with the rule." (*Emphasis added*).

LACK OF FINDING ON THE RECORD

The "Statement of Justification and Reasons for Adoption of Temporary Rules" (the "Statement") provides "Adoption of these new and amended rules on a temporary basis is necessary given the public concern regarding rapidly increasing instances of purported "forensic audits" conducted by unknown and unverified third parties nationwide. These rules are necessary to ensure the continued security and integrity of, and public confidence in, Colorado's voting systems and its elections. These rules also ensure uniform conduct of the quickly approaching November coordinated election."

In support of this Petition, Petitioner alleges SOS' failure to:

1. Provide a nexus between noncompliance with a state and/or federal law and how such alleged noncompliance renders the June 17, 2021 SOS Emergency Rules "imperatively necessary";
2. Provide a finding on the record of a "public concern" that is contrary to the public interest;
3. Provide a finding on the record of a "rapidly increasing" public concern that is contrary to public interest;

to slip through the cracks. These consequences of the rules decrease election integrity and serve to disenfranchise voters.

2. Rules 10.1-10.3 Currently, well-trained bipartisan citizen canvas boards serve as voting fraud detectors. Detection of voting fraud reduces the risk of canceling votes and increases election integrity. Proposed Rules 10.1-10.3 significantly reduce the ability of well-trained bipartisan citizen canvas boards to detect fraud by:

- i. Eliminating their ability to identify, correct, and account for errors;
- ii. Eliminating their ability to "account and balance" the election;
- iii. Eliminating their ability to pull ballots in question;
- iv. Eliminating their ability to contact election judges to address discrepancies; and
- v. Eliminating the requirement that they review the Statement of Ballots.

Petitioner contends that the SOS Proposed Rules 2.13.2 and 10.1-10.3 fail to meet the statutory requirement of Section 24-4-103(4)(b)(1) C.R.S. because the Rules are unnecessary. Moreover, the Rules waste limited state resources by utilizing untrained state personnel to perform the duties of already trained state personnel, impose undue financial burden on Colorado taxpayers by creating the likelihood of additional but unneeded SOS FTE, and serve to reduce election integrity by eliminating current fraud detection measures.

WHEREFORE, based on the foregoing Accordingly, Petitioner submits this petition to oppose the issuance of Proposed Rules 2.13.2 and 10.1-10.3 and requests that this Petition be made part of the rule-making record.

Signed: _____

Dated: 8/6/21