

## HB25-1315 LWVCO Written Testimony

### 4/29/25, Senate State, Veterans, & Military Affairs Committee

#### Proposed LWVCO Amendments:

The League of Women Voters of Colorado (LWVCO) is pleased that the HB25-1315 sponsors want to hold a November odd-year election rather than allow a vacancy committee appointment to serve more than one year. However, LWVCO is asking for 3 amendments to the bill:

- 1) Allow every elector in the legislative district to vote in the November odd-year special vacancy election,
- 2) Allow any elector, regardless of party, to run in the November odd-year special vacancy election as long as they meet the qualifications to serve in the legislative office, and
- 3) Use a better voting method to reduce vote-splitting when there are more than 2 candidates running in the November odd-year special vacancy election.

#### Election Administrators Already Conduct Special Vacancy Elections Open to All Voters and Candidates

Opening up the vacancy election to all candidates and all voters, regardless of party, is the way all special elections currently operate.

- An example of an off-cycle special election was the special election in June last year to fill the vacancy when US House Representative Ken Buck resigned.
- Examples of past on-cycle special elections to fill vacancies include US Senator Michael Bennet, JD20 District Attorney Michael Dougherty, and CU Regent Ken Montero.
- Examples of upcoming on-cycle special elections to fill vacancies include State Senate Districts 17, 29, and 31.

The point is, Colorado has been running special vacancy elections open to all candidates and all voters. To restrict the proposed odd-year November vacancy elections to only one party is unnecessary and increases costs for election administrators.

#### Only Partisan Primary Elections Limit Participation Based on Political Affiliation

The word “democracy” indicates participation by the entire population. In practice, we have some limitations based on citizenship, age and so forth. A partisan primary election to choose a political party’s nominee may restrict who can cast a ballot based on party. It’s also important to note that a primary election does not fill a seat; rather it winnows down the candidate pool and advances the primary-election winners to the general election.

The vacancy election in HB1315 is not a primary election. And because it’s not a primary election and it is a government-run election, the vacancy election should be open to every elector, regardless of party. When some voters are denied the right to vote, it’s voter disenfranchisement.

#### No States Hold Government-Run Vacancy Elections that Limit Participation Based on Party Affiliation

The League of Women Voters doesn’t know of any states that disenfranchise certain voters and certain candidates, based on party, in any elections conducted by county clerks – except for partisan primary elections, which are the first election in a 2-election process.

The LWV does not want Colorado be the only state that disenfranchises voters based on party affiliation in a government-run election to actually fill a seat. We are also concerned that denying some electors the right to vote for their state rep or state senator **might be a violation of Section 2 of the 14<sup>th</sup> Amendment of the US Constitution.**

According to the *Colorado Sun*, this bill was modeled after the Tennessee Constitution, Article II, Section 15, which states, “When twelve months or more remain prior to the next general election for legislators, a successor shall be elected by the qualified voters of the district represented ...” and “Only a qualified voter of the district represented shall be eligible to succeed to the vacant seat.” As you can see, Tennessee does not restrict candidates nor the voters by party affiliation.

#### LWV Serves the People

The League of Women Voters, LWV, is a nonpartisan group that works to empower voters and defend democracy. We work for the people, not a political party.

#### Adopting the LWVCO Amendments Can Save ~90% of the Fiscal Note

Our election system is set up to allow every voter to vote in every November election. Because that's the way our system works, if this bill were amended to allow all candidates and voters to participate in the November odd-year special vacancy election, the fiscal note could be reduced by about \$300,000 dollars – 90% of the fiscal note. Given our very tight budget this year, now is not the time to increase election costs, particularly if the costs will disenfranchise some voters.

#### Outreach to Bill Sponsors

We have reached out to the bill sponsors with our amendments and our comments on the fiscal note savings, and we'd like to thank Sen. Mike Weissman for his response. He was the only bill sponsor to respond to us. We think the constitutional question deserves a robust discussion, which hasn't happened. We don't believe that any of us testifying on this bill or voting on the committee want Colorado to be in violation of the U.S. Constitution.

Sadly, LWV was told by one influential supporter of this bill, “Sue us.” Our preference is to work through the legislative process to get LWV's proposed amendments. If the current, possibly unconstitutional, bill is passed and the governor signs it, Colorado will be unique in disenfranchising voters based on voter registration. That would be a terrible precedent!

#### Reducing Vote-Splitting in a Vacancy Election

For our final point, after amending this bill to create a special vacancy election open to participation by all, the question of what voting method to use arises. In our current system, primary elections serve to winnow the candidate field and ensure that candidates represent different parties – but, with no primary election, all the candidates would run against each other.

For a Republican-dominant district, we might have 3 Republicans and 1 Democrat compete for the seat. If the election uses choose-one plurality voting, the three Republicans could split 60% of the vote and enable the Democrat to win with 40% of the vote.

The solution is to use a better, more expressive voting method, such as Approval Voting, which could be implemented immediately, is simple to audit, does not increase election administration costs, results in fewer ballot errors and is very transparent in terms of tabulation. The Instant-Runoff Voting form of Ranked Choice Voting is another option for odd-year November elections but would increase costs and labor. (SB24-210 – also sponsored by Rep. Sirota – forbid the use of Instant-Runoff Voting in primary and general elections, but Instant-Runoff Voting is still allowed in coordinated odd-year November elections.)

#### Conclusion

To be clear, LWV wants vacancy elections in November of odd-numbered years, but we want to honor the 14th Amendment and hold elections open to all voters and all candidates. The 14th Amendment was ratified after the Civil War – our nation's deadliest war to date – to give all (male) citizens the right to cast a meaningful vote.

In conclusion, we strongly urge this committee to adopt the 3 amendments that the League of Women Voters has proposed.