

# The Denver Post

editorial

## **Ballot provision may disenfranchise voters** **Colorado's secretary of state has drafted a rule that would allow only presidential votes to count on some provisional ballots. The courts should throw out the rule.**

**Wednesday, September 29, 2004 -**

A citizen's ability to vote is one of the most cherished rights in our democracy, but some Coloradans could see that right limited by a rule from the secretary of state's office.

The rule, drafted by Secretary of State Donetta Davidson, says that some voters who cast provisional ballots this November will have only their votes for president counted. No other votes will be counted - not even those for statewide races and ballot issues.

Provisional ballots are relatively new to the election scene and were first used in Colorado two years ago. They are given to voters who aren't on a precinct poll list or who don't provide identification. Such ballots aren't counted until after a voter's registration has been verified, which sometimes doesn't happen until days after an election.

Davidson's rule would apply only to voters who not only have ID problems but who also show up at the wrong polling place. If you cast a provisional ballot in your home precinct, all your votes will count once your status is checked.

The secretary of state's office has been vague about the reasons behind the rule, except to say that it's designed to implement at the state level a 2002 federal law that both required provisional ballots and guaranteed a person's right to vote for president.

State officials also are concerned about preventing voter fraud, such as someone voting for a candidate in a legislative district that the voter doesn't live in.

Preventing illegal votes such as that makes sense, but there seems no logical reason why a person who shows up in the wrong precinct shouldn't be able to vote in statewide races like the U.S. Senate.

This year's Senate race is a critical contest, generating intense interest across the state, as are campaigns for some statewide ballot measures.

The government watchdog group Colorado Common Cause is suing to stop the provisional ballot limitation from taking effect. The case is being watched closely by several other states that have similar rules.

So for now, the issue is up to the courts.

Lawyers for the state and Common Cause will make their arguments next Tuesday before Denver District Judge Jeffrey Bayless. Bayless noted during a hearing Monday that holding the arguments Oct. 5 would leave the losing side time to appeal to the Colorado Supreme Court. Time is running short - early voting starts Oct. 18.

We hope the rule is thrown out. There is no way to know how many voters might be disenfranchised if it's allowed to stand. But one disenfranchised voter is one too many.