

ASSEMBLY BILL NO. 443—ASSEMBLYWOMAN FREEMAN

MARCH 19, 2001

Referred to Committee on Elections, Procedures, and Ethics

SUMMARY—Makes various changes concerning elections. (BDR 24-986)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to elections; providing for certain designated areas for gathering signatures on petitions; prohibiting state and local government, for certain periods, from expending money to support or oppose candidates or ballot questions; revising requirements governing petition circulators; requiring the secretary of state to prepare a nonbonding code of ethics for petition circulators; revising provisions regarding verification of signatures on certain petitions; revising requirements governing the committees that prepare arguments regarding county and municipal ballot questions; extending the period for gathering signatures on certain petitions; providing a civil penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 293 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 5, inclusive, of this act.
3 **Sec. 2. 1.** *At each building that is open to the general public and*
4 *owned and occupied by the government of this state or a political*
5 *subdivision of this state or an agency thereof, a designated area not*
6 *smaller than 4 feet by 8 feet and not less than 50 feet from a public*
7 *entrance to the building must be made available for the use of any person*
8 *to gather signatures on a petition at any time that the building is open to*
9 *the public. Each public officer or employee in control of the operation of*
10 *a building governed by this subsection shall designate and approve the*
11 *area required by this subsection for the building.*
12 **2.** *At a building that is open to the general public but not owned and*
13 *occupied by the government of this state or a political subdivision of this*
14 *state or an agency thereof, the owner may designate an area not smaller*
15 *than 4 feet by 8 feet and not less than 50 feet from a public entrance to*
16 *the building for the use of any person to gather signatures on a petition*
17 *at any time that the building is open to the public.*



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1 3. *An area designated pursuant to this section may be inside or*
2 *outside of a building.*

3 **Sec. 3.** 1. *The government of this state or a political subdivision of*
4 *this state or an agency thereof shall not incur an expense or make an*
5 *expenditure to support or oppose:*

6 *(a) A ballot question within the 60 days immediately preceding the*
7 *election at which the question will appear on the ballot.*

8 *(b) A candidate within the 90 days immediately preceding the election*
9 *at which the candidate will appear on the ballot.*

10 2. *The provisions of this section do not authorize an expense or*
11 *expenditure that is not otherwise authorized by law.*

12 **Sec. 4.** *A person who attempts to obtain the signature of a voter on a*
13 *petition for a ballot question shall:*

14 1. *When attempting to obtain a signature, wear a badge that*
15 *identifies the primary sponsor or proponent of the petition; and*

16 2. *Before the voter signs the petition, accurately describe to the voter*
17 *the effect the initiative or referendum will have upon the law of this state.*

18 **Sec. 5.** 1. *A person who circulates a petition for a ballot question*
19 *shall not willfully misrepresent the provisions of the petition to a voter to*
20 *obtain the signature of the voter on the petition.*

21 2. *A person who violates the provisions of this section is subject to a*
22 *civil penalty of not more than \$5,000 for each violation and payment of*
23 *court costs and attorney's fees. The civil penalty must be recovered in a*
24 *civil action brought in the name of the State of Nevada by the secretary*
25 *of state in the first judicial district court and deposited with the state*
26 *treasurer for credit to the state general fund.*

27 **Sec. 6.** NRS 293.12756 is hereby amended to read as follows:

28 293.12756 1. The secretary of state shall prepare an informational
29 pamphlet describing the requirements for filing and circulating petitions.
30 The pamphlet must also contain ~~the~~:

31 *(a) A sample of a petition to demonstrate an acceptable format for a*
32 *petition ~~to~~; and*

33 *(b) A nonbonding code of ethics for petition circulators that sets forth*
34 *aspirational goals for the behavior of persons who circulate petitions,*
35 *including, without limitation, behavior toward a person who may sign a*
36 *petition and behavior toward a person who is circulating another*
37 *petition.*

38 2. The pamphlets must be made available to the public and must be
39 distributed to any person who requests a pamphlet upon payment of the
40 applicable fee, if any. The secretary of state may impose a fee for the
41 pamphlet in an amount not to exceed the cost to produce the pamphlet.

42 **Sec. 7.** NRS 295.105 is hereby amended to read as follows:

43 295.105 1. Within 20 days after the petition is filed, the county clerk
44 shall complete a certificate as to its sufficiency, specifying, if it is
45 insufficient, the particulars wherein it is defective and shall promptly send
46 a copy of the certificate to the petitioners' committee by registered or
47 certified mail. *In examining the petition to determine its sufficiency, the*
48 *county clerk may use any file or list of registered voters maintained by*
49 *his office or facsimiles of voters' signatures.*



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1 2. A petition must not be certified insufficient for lack of the required
2 number of valid signatures if, in the absence of other proof of
3 disqualification, any signature on the face thereof does not exactly
4 correspond with the signature appearing on the official register of voters
5 and the identity of the signer can be ascertained from the face of the
6 petition. A petition certified insufficient for lack of the required number of
7 valid signatures may be amended once if the petitioners' committee files a
8 notice of intention to amend it with the county clerk within 2 days after
9 receiving the copy of his certificate and files a supplementary petition upon
10 additional papers within 10 days after receiving the copy of the certificate.
11 A supplementary petition must comply with the requirements of
12 subsections 5 and 6 of NRS 295.095, and within 5 days after it is filed the
13 county clerk shall complete a certificate as to the sufficiency of the petition
14 as amended and promptly send a copy of the certificate to the petitioners'
15 committee by registered or certified mail.

16 3. If a petition or amended petition is certified sufficient, or if a
17 petition or amended petition is certified insufficient and the petitioners'
18 committee does not elect to amend or request board review under
19 subsection 4 within the time required, the county clerk shall promptly
20 present his certificate to the board and the certificate is a final
21 determination as to the sufficiency of the petition.

22 4. If a petition has been certified insufficient and the petitioners'
23 committee does not file notice of intention to amend it or if an amended
24 petition has been certified insufficient, the committee may, within 2 days
25 after receiving a copy of the certificate, file a request that it be reviewed by
26 the board. The board shall review the certificate at its next meeting
27 following the filing of the request and approve or disapprove it, and the
28 determination of the board is a final determination as to the sufficiency of
29 the petition.

30 5. A final determination as to the sufficiency of a petition is subject to
31 court review. A final determination of insufficiency, even if sustained upon
32 court review, does not prejudice the filing of a new petition for the same
33 purpose.

34 **Sec. 8.** NRS 295.121 is hereby amended to read as follows:

35 295.121 1. In a county whose population is 50,000 or more, for each
36 initiative, referendum or other question to be placed on the ballot by the
37 board or county clerk, including, without limitation, pursuant to NRS
38 293.482, 295.115 or 295.160, the board shall, in consultation with the
39 county clerk, pursuant to subsection 2, appoint a committee of six persons,
40 three of whom are known to favor approval by the voters of the initiative,
41 referendum or other question and three of whom are known to oppose
42 approval by the voters of the initiative, referendum or other question. A
43 person may serve on more than one committee. Members of the committee
44 serve without compensation ~~and~~ *and must be registered voters eligible to*
45 *vote on the initiative, referendum or other question.* The term of office for
46 each member commences upon appointment and expires upon the
47 publication of the sample ballot containing the initiative, referendum or
48 other question.



- 1 2. Before the board appoints a committee pursuant to subsection 1, the
2 county clerk shall:
- 3 (a) Recommend to the board persons to be appointed to the committee;
4 and
- 5 (b) Consider recommending pursuant to paragraph (a):
- 6 (1) Any person who has expressed an interest in serving on the
7 committee; and
- 8 (2) A person who is a member of an organization that has expressed
9 an interest in having a member of the organization serve on the committee.
- 10 3. If the board of a county whose population is 50,000 or more fails to
11 appoint a committee as required by subsection 1, the county clerk shall
12 appoint the committee.
- 13 4. A committee appointed pursuant to this section:
- 14 (a) Shall elect a chairman for the committee;
- 15 (b) Shall meet and conduct its affairs as necessary to fulfill the
16 requirements of this section;
- 17 (c) May seek and consider comments from the general public;
- 18 (d) Shall prepare an argument advocating approval by the voters of the
19 initiative, referendum or other question, and prepare a rebuttal to that
20 argument;
- 21 (e) Shall prepare an argument opposing approval by the voters of the
22 initiative, referendum or other question, and prepare a rebuttal to that
23 argument; and
- 24 (f) Shall submit the arguments and rebuttals prepared pursuant to
25 paragraphs (d) and (e) to the county clerk not later than the date prescribed
26 by the county clerk pursuant to subsection 5.
- 27 5. The county clerk of a county whose population is 50,000 or more
28 shall provide, by rule or regulation:
- 29 (a) The maximum permissible length of an argument or rebuttal
30 prepared pursuant to this section; and
- 31 (b) The date by which an argument or rebuttal prepared pursuant to this
32 section must be submitted by the committee to the county clerk.
- 33 6. Upon receipt of an argument or rebuttal prepared pursuant to this
34 section, the county clerk shall reject each statement in the argument or
35 rebuttal that he believes is libelous or factually inaccurate. Not later than 5
36 days after the county clerk rejects a statement pursuant to this subsection,
37 the committee may appeal that rejection to the district attorney. The district
38 attorney shall review the statement and the reasons for its rejection and
39 may receive evidence, documentary or testimonial, to aid him in his
40 decision. Not later than 3 business days after the appeal by the committee,
41 the district attorney shall issue his decision rejecting or accepting the
42 statement. The decision of the district attorney is a final decision for the
43 purposes of judicial review. *Not later than 5 days after the district*
44 *attorney issues his decision, the committee may file a complaint in*
45 *district court challenging the decision. The court shall give priority to*
46 *such a complaint over all other matters pending with the court, except for*
47 *criminal proceedings.*
- 48 7. The county clerk shall place in the sample ballot provided to the
49 registered voters of the county each argument and rebuttal prepared



1 pursuant to this section, containing all statements that were not rejected
2 pursuant to subsection 6. The county clerk may revise the language
3 submitted by the committee so that it is clear, concise and suitable for
4 incorporation in the sample ballot, but shall not alter the meaning or effect
5 without the consent of the committee.

6 8. In a county whose population is less than 50,000:

7 (a) The board may appoint a committee pursuant to subsection 1.

8 (b) If the board appoints a committee, the county clerk shall provide for
9 rules or regulations pursuant to subsection 5.

10 **Sec. 9.** NRS 295.210 is hereby amended to read as follows:

11 295.210 1. Within 20 days after the petition is filed, the city clerk
12 shall examine the signatures thereon, complete a certificate as to its
13 sufficiency, specifying, if it is insufficient, the particulars wherein it is
14 defective and shall promptly send a copy of the certificate to the
15 petitioners' committee by registered or certified mail. *In examining the*
16 *petition to determine its sufficiency, the city clerk may use any file or list*
17 *of registered voters maintained by his office or the office of the county*
18 *clerk or facsimiles of voters' signatures.*

19 2. If more than 500 names are signed on the documents filed with him,
20 the city clerk must examine the signatures by sampling them randomly for
21 verification. The random sample of signatures to be verified must be drawn
22 in such a manner that every signature which has been submitted to the city
23 clerk is given an equal opportunity to be included in the sample. The
24 sample must include an examination of at least 500 signatures or 5 percent
25 of the signatures, whichever is greater.

26 3. A petition must not be certified insufficient for lack of the required
27 number of valid signatures if, in the absence of other proof of
28 disqualification, any signature on the face thereof does not exactly
29 correspond with the signature appearing on the official register of voters
30 and the identity of the signer can be ascertained from the face of the
31 petition. A petition certified insufficient for lack of the required number of
32 valid signatures may be amended once if the petitioners' committee files a
33 notice of intention to amend it with the city clerk within 2 days after
34 receiving the copy of his certificate and files a supplementary petition upon
35 additional papers within 10 days after receiving the copy of the certificate.
36 A supplementary petition must comply with the requirements of
37 subsections 5 and 6 of NRS 295.205, and within 5 days after it is filed the
38 city clerk shall complete a certificate as to the sufficiency of the petition as
39 amended and promptly send a copy of the certificate to the petitioners'
40 committee by registered or certified mail.

41 4. If a petition or amended petition is certified sufficient, or if a
42 petition or amended petition is certified insufficient and the petitioners'
43 committee does not elect to amend or request council review under
44 subsection 5 within the time required, the city clerk must promptly present
45 his certificate to the council and the certificate is a final determination as to
46 the sufficiency of the petition.

47 5. If a petition has been certified insufficient and the petitioners'
48 committee does not file notice of intention to amend it or if an amended
49 petition has been certified insufficient, the committee may, within 2 days



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1 after receiving the copy of the certificate, file a request that it be reviewed
2 by the council. The council shall review the certificate at its next meeting
3 following the filing of the request and approve or disapprove it, and the
4 council's determination is a final determination as to the sufficiency of the
5 petition.

6 6. A final determination as to the sufficiency of a petition is subject to
7 court review. A final determination of insufficiency, even if sustained upon
8 court review, does not prejudice the filing of a new petition for the same
9 purpose.

10 **Sec. 10.** NRS 295.217 is hereby amended to read as follows:

11 295.217 1. In a city whose population is 50,000 or more, for each
12 initiative, referendum or other question to be placed on the ballot by the
13 council, including, without limitation, pursuant to NRS 293.482 or
14 295.215, the council shall, in consultation with the city clerk, pursuant to
15 subsection 2, appoint a committee of six persons, three of whom are known
16 to favor approval by the voters of the initiative, referendum or other
17 question and three of whom are known to oppose approval by the voters of
18 the initiative, referendum or other question. A person may serve on more
19 than one committee. Members of the committee serve without
20 compensation ~~+~~ *and must be registered voters eligible to vote on the*
21 *initiative, referendum or other question.* The term of office for each
22 member commences upon appointment and expires upon the publication of
23 the sample ballot containing the initiative, referendum or other question.

24 2. Before the council appoints a committee pursuant to subsection 1,
25 the city clerk shall:

26 (a) Recommend to the council persons to be appointed to the
27 committee; and

28 (b) Consider recommending pursuant to paragraph (a):

29 (1) Any person who has expressed an interest in serving on the
30 committee; and

31 (2) A person who is a member of an organization that has expressed
32 an interest in having a member of the organization serve on the committee.

33 3. If the council of a city whose population is 50,000 or more fails to
34 appoint a committee as required by subsection 1, the city clerk shall
35 appoint the committee.

36 4. A committee appointed pursuant to this section:

37 (a) Shall elect a chairman for the committee;

38 (b) Shall meet and conduct its affairs as necessary to fulfill the
39 requirements of this section;

40 (c) May seek and consider comments from the general public;

41 (d) Shall prepare an argument advocating approval by the voters of the
42 initiative, referendum or other question, and prepare a rebuttal to that
43 argument;

44 (e) Shall prepare an argument opposing approval by the voters of the
45 initiative, referendum or other question, and prepare a rebuttal to that
46 argument; and

47 (f) Shall submit the arguments and rebuttals prepared pursuant to
48 paragraphs (d) and (e) to the city clerk not later than the date prescribed by
49 the city clerk pursuant to subsection 5.



1 5. The city clerk of a city whose population is 50,000 or more shall
2 provide, by rule or regulation:

3 (a) The maximum permissible length of an argument or rebuttal
4 prepared pursuant to this section; and

5 (b) The date by which an argument or rebuttal prepared pursuant to this
6 section must be submitted by the committee to the city clerk.

7 6. Upon receipt of an argument or rebuttal prepared pursuant to this
8 section, the city clerk shall reject each statement in the argument or rebuttal
9 that he believes is libelous or factually inaccurate. Not later than 5 days
10 after the city clerk rejects a statement pursuant to this subsection, the
11 committee may appeal that rejection to the city attorney. The city attorney
12 shall review the statement and the reasons for its rejection and may receive
13 evidence, documentary or testimonial, to aid him in his decision. Not later
14 than 3 business days after the appeal by the committee, the city attorney
15 shall issue his decision rejecting or accepting the statement. The decision
16 of the city attorney is a final decision for the purposes of judicial review.
17 *Not later than 5 days after the city attorney issues his decision, the*
18 *committee may file a complaint in district court challenging the decision.*
19 *The court shall give priority to such a complaint over all other matters*
20 *pending with the court, except for criminal proceedings.*

21 7. The city clerk shall place in the sample ballot provided to the
22 registered voters of the city each argument and rebuttal prepared pursuant
23 to this section, containing all statements that were not rejected pursuant to
24 subsection 6. The city clerk may revise the language submitted by the
25 committee so that it is clear, concise and suitable for incorporation in the
26 sample ballot, but shall not alter the meaning or effect without the consent
27 of the committee.

28 8. In a city whose population is less than 50,000:

29 (a) The council may appoint a committee pursuant to subsection 1.

30 (b) If the council appoints a committee, the city clerk shall provide for
31 rules or regulations pursuant to subsection 5.

32 **Sec. 11.** NRS 306.015 is hereby amended to read as follows:

33 306.015 1. Before a petition to recall a public officer is circulated,
34 the persons proposing to circulate the petition must file a notice of intent
35 with the filing officer.

36 2. The notice of intent:

37 (a) Must be signed by three registered voters who actually voted in this
38 state or in the county, district or municipality electing the officer at the last
39 preceding general election.

40 (b) Must be signed before a person authorized by law to administer
41 oaths that the statements and signatures contained in the notice are true.

42 (c) Is valid until the date on which the call for a special election is
43 issued, as set forth in NRS 306.040.

44 3. The petition may consist of more than one document. The persons
45 filing the notice of intent shall submit the petition that was circulated for
46 signatures to the filing officer within ~~160~~ 90 days after the date on which
47 the notice of intent was filed. The filing officer shall immediately submit
48 the petition to the county clerk for verification pursuant to NRS 306.035.
49 Any person who fails to file the petition as required by this subsection is



1 guilty of a misdemeanor. Copies of the petition are not valid for any
2 subsequent petition.

3 4. The county clerk shall, upon completing the verification of the
4 signatures on the petition, file the petition with the filing officer.

5 5. Any person who signs a petition to recall any public officer may
6 remove his name from the petition by submitting a request in writing to the
7 county clerk at any time before the petition is submitted for the verification
8 of the signatures thereon pursuant to NRS 306.035.

9 6. A person who signs a notice of intent pursuant to subsection 1 or a
10 petition to recall a public officer is immune from civil liability for conduct
11 related to the exercise of his right to participate in the recall of a public
12 officer.

13 7. As used in this section, “filing officer” means the officer with whom
14 the public officer to be recalled filed his declaration of candidacy or
15 acceptance of candidacy pursuant to NRS 293.185, 293C.145 or 293C.175.

16 **Sec. 12.** NRS 350.020 is hereby amended to read as follows:

17 350.020 1. Except as otherwise provided by subsections 3 and 4, if a
18 municipality proposes to issue or incur general obligations, the proposal
19 must be submitted to the electors of the municipality at a special election
20 called for that purpose or the next general municipal election or general
21 state election.

22 2. Such a special election may be held:

23 (a) At any time, including, without limitation, on the date of a primary
24 municipal election or a primary state election, if the governing body of the
25 municipality determines, by a unanimous vote, that an emergency exists; or

26 (b) On the first Tuesday after the first Monday in June of an odd-
27 numbered year.

28 The determination made by the governing body is conclusive unless it is
29 shown that the governing body acted with fraud or a gross abuse of
30 discretion. An action to challenge the determination made by the governing
31 body must be commenced within 15 days after the governing body’s
32 determination is final. As used in this subsection, “emergency” means any
33 occurrence or combination of occurrences which requires immediate action
34 by the governing body of the municipality to prevent or mitigate a
35 substantial financial loss to the municipality or to enable the governing
36 body to provide an essential service to the residents of the municipality.

37 3. If payment of a general obligation of the municipality is additionally
38 secured by a pledge of gross or net revenue of a project to be financed by
39 its issue, and the governing body determines, by an affirmative vote of
40 two-thirds of the members elected to the governing body, that the pledged
41 revenue will at least equal the amount required in each year for the
42 payment of interest and principal, without regard to any option reserved by
43 the municipality for early redemption, the municipality may, after a public
44 hearing, incur this general obligation without an election unless, within
45 ~~60~~ 90 days after publication of a resolution of intent to issue the bonds, a
46 petition is presented to the governing body signed by not less than 5
47 percent of the registered voters of the municipality who together with any
48 corporate petitioners own not less than 2 percent in assessed value of the
49 taxable property of the municipality. Any member elected to the governing



1 body whose authority to vote is limited by charter, statute or otherwise may
2 vote on the determination required to be made by the governing body
3 pursuant to this subsection. The determination by the governing body
4 becomes conclusive on the last day for filing the petition. For the purpose
5 of this subsection, the number of registered voters must be determined as
6 of the close of registration for the last preceding general election and
7 assessed values must be determined from the next preceding final
8 assessment roll. An authorized corporate officer may sign such a petition
9 whether or not he is a registered voter. The resolution of intent need not be
10 published in full, but the publication must include the amount of the
11 obligation and the purpose for which it is to be incurred. Notice of the
12 public hearing must be published at least 10 days before the day of the
13 hearing. The publications must be made once in a newspaper of general
14 circulation in the municipality. When published, the notice of the public
15 hearing must be at least as large as 5 inches high by 4 inches wide.

16 4. The board of trustees of a school district may issue general
17 obligation bonds which are not expected to result in an increase in the
18 existing property tax levy for the payment of bonds of the school district
19 without holding an election for each issuance of the bonds if the qualified
20 electors approve a question submitted by the board of trustees that
21 authorizes issuance of bonds for a period of 10 years after the date of
22 approval by the voters. If the question is approved, the board of trustees of
23 the school district may issue the bonds for a period of 10 years after the
24 date of approval by the voters, after obtaining the approval of the debt
25 management commission in the county in which the school district is
26 located and, in a county whose population is 100,000 or more, the approval
27 of the oversight panel for school facilities established pursuant to NRS
28 393.092 in that county, if the board of trustees of the school district finds
29 that the existing tax for debt service will at least equal the amount required
30 to pay the principal and interest on the outstanding general obligations of
31 the school district and the general obligations proposed to be issued. The
32 finding made by the board of trustees is conclusive in the absence of fraud
33 or gross abuse of discretion. As used in this subsection, "general
34 obligations" does not include medium-term obligations issued pursuant to
35 NRS 350.085 to 350.095, inclusive.

36 5. At the time of issuance of bonds authorized pursuant to subsection
37 4, the board of trustees shall establish a reserve account in its debt service
38 fund for payment of the outstanding bonds of the school district. The
39 reserve account must be established and maintained in an amount at least
40 equal to the lesser of the amount of principal and interest payments due on
41 all of the outstanding bonds of the school district in the next fiscal year or
42 10 percent of the outstanding principal amount of the outstanding bonds of
43 the school district. If the amount in the reserve account falls below the
44 amount required by this subsection:

45 (a) The board of trustees shall not issue additional bonds pursuant to
46 subsection 4 until the reserve account is restored to the level required by
47 this subsection; and

48 (b) The board of trustees shall apply all of the taxes levied by the school
49 district for payment of bonds of the school district that are not needed for



1 payment of the principal and interest on bonds of the school district in the
2 current fiscal year to restore the reserve account to the level required
3 pursuant to this subsection.

4 6. A municipality may issue special or medium-term obligations
5 without an election.

6 **Sec. 13.** The provisions of this act do not apply to conduct that
7 occurred before October 1, 2001.

