

Assembly Bill No. 638—Committee on Elections,
Procedures, and Ethics

CHAPTER.....

AN ACT relating to governmental administration; requiring the county or city clerk under certain circumstances to provide the result of a challenge of a voter to the person who initiated the challenge; clarifying the treatment of special absent ballots; revising the procedures for closing a polling place and counting ballots; revising the provisions governing voting by a new resident for President and Vice President; revising the requirement that a judicial officer and a candidate for judicial office must file certain statements of financial disclosure; and providing other matters properly relating thereto.

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

Section 1. Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *1. As soon as practicable, but in no case later than 21 calendar days after each election, the county clerk shall mail a notice to each person who is listed on the challenge list as the registered voter who initiated a challenge pursuant to NRS 293.303.*

2. The notice mailed pursuant to subsection 1 must indicate:

(a) The name of the person who was challenged, if known; and

(b) The result of the challenge.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 293.303 is hereby amended to read as follows:

293.303 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not belong to the political party designated upon the register, "I swear or affirm under penalty of perjury that I belong to the political party designated upon the register";

(b) If the challenge is on the ground that the register does not show that he designated the political party to which he claims to belong, "I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong";

(c) If the challenge is on the ground that he does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";

(d) If the challenge is on the ground that he previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(e) If the challenge is on the ground that he is not the person he claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."

The oath or affirmation must be set forth on a form prepared by the secretary of state and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged" opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue him a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform him that he is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue him a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he furnishes satisfactory identification which contains proof of the address at which he actually resides.

8. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years ~~old~~ *of age* who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

9. The election board officers shall ~~record the result of the challenge~~ :

(a) *Record* on the challenge list ~~1, and the election board officer in charge of the checklist shall indicate~~ :

(1) *The name of the challenged person;*

(2) *The name of the registered voter who initiated the challenge;*
and

(3) *The result of the challenge;*

(b) *If possible, orally notify the registered voter who initiated the challenge of the result of the challenge; and*

(c) *Indicate on the checklist* next to the name of the challenged person the result of the challenge.

Sec. 5. NRS 293.317 is hereby amended to read as follows:

293.317 Absent ballots, *including special absent ballots described in NRS 293.3155*, received by the county or city clerk after the polls are closed on the day of election are invalid.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 293B.330 is hereby amended to read as follows:

293B.330 1. Upon closing of the polls, the election board shall:

(a) Secure all mechanical recording devices against further voting.

(b) If a mechanical voting system is used whereby votes are cast by punching a card:

(1) Count the number of ballots in the ballot boxes.

(2) Account for all ballots on the statement of ballots.

(3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.

(c) If a mechanical voting system is used whereby votes are directly recorded electronically:

(1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

(2) Count the number of ballots voted at the polling place.

(3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as directed by the county clerk into the container provided by him to transport those items to a central counting place and seal the container.

(d) Record the number of voters on a form provided by the county clerk.

2. If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the county clerk.

3. After closing the polls, the election board shall:

(a) Compare the quantity of the supplies furnished by the county clerk with the inventory of those supplies; and

(b) Note any shortages.

4. The county clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 8. (Deleted by amendment.)

Sec. 9. Chapter 293C of NRS is hereby amended by adding thereto the provisions set forth as sections 10 and 11 of this act.

Sec. 10. 1. As soon as practicable, but in no case later than 21 calendar days after each election, the city clerk shall mail a notice to each person who is listed on the challenge list as a registered voter who initiated a challenge pursuant to NRS 293C.292.

- 2. The notice mailed pursuant to subsection 1 must indicate:**
(a) The name of the person who was challenged, if known; and
(b) The result of the challenge.

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 293C.292 is hereby amended to read as follows:

293C.292 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that he does not reside at the residence for which the address is listed in the election board register, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the election board register";

(b) If the challenge is on the ground that he previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(c) If the challenge is on the ground that he is not the person he claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this election board register."

The oath or affirmation must be set forth on a form prepared by the secretary of state and signed by the challenged person under penalty of perjury.

3. If the challenged person refuses to execute the oath or affirmation so tendered, he must not be issued a ballot, and the officer in charge of the election board register shall write the words "Challenged" opposite his name in the election board register.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) of subsection 2, the election board officers shall inform him that he is entitled to vote only in the manner prescribed in NRS 293C.295.

5. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (c) of subsection 2, the election board officers shall issue him a ballot.

6. If the challenge is based on the ground set forth in paragraph (a) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he furnishes satisfactory identification that contains proof of the address at which he actually resides.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless he:

(a) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years ~~old~~ of age who:

(1) Furnishes official identification which contains a photograph of himself, such as his driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he swears he is.

8. The election board officers shall ~~record the result of the challenge~~ :

(a) ~~Record~~ on the challenge list ~~and the election board officer in charge of the checklist shall indicate~~ :

(1) *The name of the challenged person;*

(2) *The name of the registered voter who initiated the challenge;*
and

(3) *The result of the challenge;*

(b) *If possible, orally notify the registered voter who initiated the challenge of the result of the challenge; and*

(c) *Indicate on the checklist* next to the name of the challenged person the result of the challenge.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 293C.630 is hereby amended to read as follows:

293C.630 1. Upon closing of the polls, the election board shall:

(a) Secure all mechanical recording devices against further voting.

(b) If a mechanical voting system is used whereby votes are cast by punching a card:

(1) Count the number of ballots in the ballot boxes.

(2) Account for all ballots on the statement of ballots.

(3) Place all official ballots, the ballot statement and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.

(c) If a mechanical voting system is used whereby votes are directly recorded electronically:

(1) Ensure that each mechanical recording device:

(I) Provides a record printed on paper of the total number of votes recorded on the device for each candidate and for or against each measure; and

(II) Transfers the ballots voted on that device to the storage device required pursuant to NRS 293B.084.

(2) Count the number of ballots voted at the polling place.

(3) Account for all ballots on the statement of ballots.

(4) Place all records printed on paper provided by the mechanical recording devices, all storage devices which store the ballots voted on the mechanical recording devices, and any other records, reports and materials as directed by the city clerk into the container provided by him to transport those items to a central counting place and seal the container.

(d) *Record the number of voters on a form provided by the city clerk.*

2. *If a difference exists between the number of voters and the number of ballots voted, the election board shall report the difference and any known reasons for the difference, in writing, to the city clerk.*

3. *After closing the polls, the election board shall:*

(a) *Compare the quantity of the supplies furnished by the city clerk with the inventory of those supplies; and*

(b) Note any shortages.

4. The city clerk shall allow members of the general public to observe the handling of the ballots pursuant to subsection 1 if those members do not interfere with the handling of the ballots.

Sec. 15. (Deleted by amendment.)

Sec. 16. Chapter 298 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a new resident of the State of Nevada otherwise qualified to vote in another state in any election for President and Vice President of the United States has commenced his residence in this state after the 30th day next preceding that election and for this reason does not satisfy the requirements for registration in this state, he may vote for President and Vice President in this state.

2. If a new resident of the State of Nevada wishes to vote for the President and Vice President of the United States pursuant to this section, he must:

(a) Apply to the county clerk for the appropriate ballot using the form prescribed by the secretary of state; and

(b) Vote only in the office of the county clerk during regular office hours.

3. A county clerk, upon receipt of an application pursuant to this section, shall provide the applicant a ballot and any other materials necessary to vote only for President and Vice President of the United States.

4. A vote cast pursuant to this section must not be:

(a) Combined with the total of a precinct but must be segregated at the precinct and then combined with the totals for the county.

(b) Included in precinct, district, county or state totals for other electoral purposes.

5. The secretary of state may, in a manner consistent with the election laws of this state, adopt regulations to effectuate the purposes of this section.

Sec. 17. NRS 298.250 is hereby amended to read as follows:

298.250 1. If a former resident of the State of Nevada otherwise qualified to vote in another state in any election for President and Vice President *of the United States* has commenced his residence in the other state after the 30th day next preceding that election and for this reason does not satisfy the requirements for registration in the other state, he may vote for President and Vice President only in that election:

(a) In person in the county of the State of Nevada which was his former residence, if he is otherwise qualified to vote there; or

(b) By absent ballot in the county of the State of Nevada which was his former residence, if he is otherwise qualified to vote there and complies with the applicable requirements of NRS 293.310 to 293.340, inclusive.

~~2. If a new resident of the State of Nevada otherwise qualified to vote in another state in any election for President and Vice President has commenced his residence in this state after the 30th day next preceding that election and for this reason does not satisfy the requirements for registration in this state, he may vote for President and Vice President in this state.~~

~~—3.1~~ The secretary of state may, in a manner consistent with the election laws of this state, adopt ~~[such regulations as may be necessary]~~ **regulations** to effectuate the purposes of this section.

Sec. 18. NRS 218.920 is hereby amended to read as follows:

218.920 The registration statement of a lobbyist must contain the following information:

1. The registrant's full name, permanent address, place of business and temporary address while lobbying.

2. The full name and complete address of each person, if any, by whom the registrant is retained or employed or on whose behalf the registrant appears.

3. A listing of any direct business associations or partnerships involving any current member of the legislature and the registrant or any person by whom the registrant is retained or employed. The listing must include any such association or partnership constituting a source of income or involving a debt or interest in real estate required to be disclosed in a statement of financial disclosure made by a candidate **for public office** or a public ~~for judicial~~ officer pursuant to NRS 281.571.

4. The name of any current member of the legislature for whom:

(a) The registrant; or

(b) Any person by whom the registrant is retained or employed,

has, in connection with a political campaign of the legislator, provided consulting, advertising or other professional services since the beginning of the preceding regular legislative session.

5. A description of the principal areas of interest on which the registrant expects to lobby.

6. If the registrant lobbies or purports to lobby on behalf of members, a statement of the number of members.

7. A declaration under penalty of perjury that none of the registrant's compensation or reimbursement is contingent, in whole or in part, upon the production of any legislative action.

Sec. 19. NRS 281.4323 is hereby amended to read as follows:

281.4323 "Candidate" means any person:

1. Who files a declaration of candidacy;

2. Who files an acceptance of candidacy; or

3. Whose name appears on an official ballot at any election. ~~†
for election to any public office, including the office of justice of the supreme court, district judge, justice of the peace and municipal judge -†~~

Sec. 20. NRS 281.4365 is hereby amended to read as follows:

281.4365 1. "Public officer" means a person elected or appointed to a position which is established by the constitution of the State of Nevada, a statute of this state or an ordinance of any of its counties or incorporated cities and which involves the exercise of a public power, trust or duty. As used in this section, "the exercise of a public power, trust or duty" includes:

(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

(b) The expenditure of public money; and

- (c) The enforcement of laws and rules of the state, a county or a city.
- 2. “Public officer” does not include:
 - (a) Any justice, judge or other officer of the court system;
 - (b) Any member of a board, commission or other body whose function is advisory;
 - (c) Any member of a board of trustees for a general improvement district or special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or
 - (d) A county health officer appointed pursuant to NRS 439.290.
- 3. *“Public office” does not include an office held by:*
 - (a) Any justice, judge or other officer of the court system;*
 - (b) A commissioner of deeds;*
 - (c) Any member of a board, commission or other body whose function is advisory;*
 - (d) Any member of a board of trustees for a general improvement district or special district whose official duties do not include the formulation of a budget for the district or the authorization of the expenditure of the district’s money; or*
 - (e) A county health officer appointed pursuant to NRS 439.290.*

Sec. 21. (Deleted by amendment.)

Sec. 22. NRS 281.561 is hereby amended to read as follows:

281.561 1. Except as otherwise provided in subsection 2 or 3, if a candidate for public ~~for judicial~~ office or a public ~~for judicial~~ officer is entitled to receive compensation for serving in the office in question, he shall file with the commission, and with the officer with whom declarations of candidacy for the office in question are filed, a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection *to public office* shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office.

(b) A public ~~for judicial~~ officer appointed to fill the unexpired term of an elected public ~~for judicial~~ officer shall file a statement of financial disclosure within 30 days after his appointment.

(c) Every public ~~for judicial~~ officer, whether appointed or elected, shall file a statement of financial disclosure on or before March 31 of each year of the term, including the year the term expires.

(d) A public ~~for judicial~~ officer who leaves office on a date other than the expiration of his term or anniversary of his appointment or election, shall file a statement of financial disclosure within 60 days after leaving office.

2. A statement filed pursuant to one of the paragraphs of subsection 1 may be used to satisfy the requirements of another paragraph of subsection 1 if the initial statement was filed not more than 3 months before the other statement is required to be filed. The public ~~for judicial~~ officer shall notify the commission in writing of his intention to use the previously filed statement to fulfill the present requirement.

3. If a person is serving in a public ~~for judicial~~ office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of

subsection 1 for every other public ~~for judicial~~ office in which he is also serving. The person shall notify the commission in writing of his intention to use the statement for the initial office to fulfill the requirements of subsection 1 for every other office.

4. A person may satisfy the requirements of subsection 1 by filing with the commission a copy of a statement of financial disclosure that was filed pursuant to the requirements of a specialized or local ethics committee if the form of the statement has been approved by the commission.

5. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

Sec. 23. NRS 281.571 is hereby amended to read as follows:

281.571 1. Statements of financial disclosure, as approved pursuant to NRS 281.541 or in such form as the commission otherwise prescribes, must contain the following information concerning the candidate *for public office* or public ~~for judicial~~ officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as “professional services” must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this state or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate *for public office* or public ~~for judicial~~ officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate *for public office* or public ~~for judicial~~ officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative ~~for judicial~~ or political action of the candidate *for public office* or public ~~for judicial~~ officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The commission shall distribute or cause to be distributed the forms required for such a statement to each candidate *for public office* and public ~~for judicial~~ officer who is required to file one. The commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281.541.

3. As used in this section:

(a) “Business entity” means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

(b) “Household” includes:

(1) The spouse of a candidate *for public office* or public ~~for judicial~~ officer;

(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate *for public office* or public ~~for judicial~~ officer; and

(3) A person who lived in the home or dwelling of the candidate *for public office* or public ~~for judicial~~ officer for 6 months or more in the year immediately preceding the year in which the candidate *for public office* or public ~~for judicial~~ officer files the statement of financial disclosure.

Sec. 24. NRS 281.575 is hereby amended to read as follows:

281.575 The secretary of state and each county or city clerk who receives *from a candidate for public office* a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate the form prescribed by the commission for the making of a statement of financial disclosure, accompanied by instructions on how to complete the form, where it must be filed and the time by which it must be filed.

Sec. 25. NRS 281.581 is hereby amended to read as follows:

281.581 1. A candidate *for public office* or public ~~for judicial~~ officer who fails to file his statement of financial disclosure in a timely manner pursuant to NRS 281.561 is subject to a civil penalty and payment of court costs and attorney’s fees. The amount of the civil penalty is:

(a) If the statement is filed not more than 7 days late, \$25 for each day the statement is late.

(b) If the statement is filed more than 7 days late but not more than 15 days late, \$175 for the first 7 days, plus \$50 for each additional day the statement is late.

(c) If the statement is filed more than 15 days late, \$575 for the first 15 days, plus \$100 for each additional day the statement is late.

2. The commission may, for good cause shown, waive or reduce the civil penalty.

3. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the commission in a court of competent jurisdiction and deposited with the state treasurer for credit to the state general fund.

4. If the commission waives a civil penalty pursuant to subsection 2, the commission shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 26. The amendatory provisions of section 21 of this act do not apply to proceedings for judicial review initiated before October 1, 2001.

Sec. 27. Section 20 of this act becomes effective at 12:01 a.m. on October 1, 2001.