

ASSEMBLY BILL NO. 455—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

MARCH 28, 2005

Referred to Committee on Elections, Procedures, Ethics,
and Constitutional Amendments

SUMMARY—Makes various changes related to elections.
(BDR 24-1334)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 that a primary election must be conducted on the twelfth Tuesday before a general election in an even-numbered year; revising the provisions governing areas at public buildings for the use in gathering of signatures on a petition; revising the provision governing the form for application to register to vote; revising the provisions governing registering to vote before an election; providing a 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
2 thereto a new section to read as follows:

3 1. *A county clerk may provide the form for the application to*
4 *register to vote prescribed by the Secretary of State pursuant to*
5 *NRS 293.507 to a candidate, major political party, minor political*
6 *party or any other person submitting a request pursuant to*
7 *subsection 2.*

8 2. *A candidate, major political party, minor political party or*
9 *other person shall:*



1 (a) *Submit a request for forms for the application to register to*
2 *vote to the county clerk in person, by telephone, in writing or by*
3 *facsimile machine; and*

4 (b) *State the number of forms for the application to register to*
5 *vote that the candidate, major political party, minor political party*
6 *or other person is requesting.*

7 3. *The county clerk may record the control numbers assigned*
8 *to the forms by the Secretary of State pursuant to NRS 293.507 of*
9 *the forms he provided in response to the request. The county clerk*
10 *shall maintain a request for multiple applications with his records.*

11 Secs. 2-4. (Deleted by amendment.)

12 Sec. 5. NRS 293.127565 is hereby amended to read as
13 follows:

14 293.127565 1. At each building that is open to the general
15 public and occupied by the government of this State or a political
16 subdivision of this State or an agency thereof, other than a building
17 of a public elementary or secondary school, an area must be made
18 available for the use of any person to gather signatures on a petition
19 at any time that the building is open to the public. The area must be
20 reasonable and may be inside or outside of the building. Each public
21 officer or employee in control of the operation of a building
22 governed by this subsection shall designate and approve the area
23 required by this subsection for the building.

24 2. Before a person may use an area designated pursuant to
25 subsection 1, the person must notify the public officer or employee
26 in control of the operation of the building governed by subsection 1
27 of the dates and times that the person intends to use the area to
28 gather signatures on a petition. The public officer or employee may
29 not deny the person the use of the area.

30 3. A person aggrieved by a decision made by a public officer or
31 employee pursuant to subsection 1 *or 2* may appeal the decision to
32 the Secretary of State. The Secretary of State shall review the
33 decision to determine whether the public officer or employee
34 ~~[designated a reasonable area as required by]~~ *violated* subsection 1
35 ~~[.]~~ *or 2. If the Secretary of State determines that the public officer*
36 *or employee violated subsection 1 or 2 and that a person was*
37 *denied the use of a public building for the purpose of gathering*
38 *signatures on a petition, the Secretary of State shall order that the*
39 *deadline for filing the petition provided pursuant to NRS 293.128,*
40 *293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110*
41 *must be extended for a period equal to the time that the person*
42 *was denied the use of a public building for the purpose of*
43 *gathering signatures on a petition, but in no event may the*
44 *deadline be extended for a period of more than 5 days.*



4. The decision of the Secretary of State is a final decision for the purposes of judicial review. The decision of the Secretary of State may only be appealed in the First Judicial District Court. *If the First Judicial District Court determines that the public officer or employee violated subsection 1 or 2 and that a person was denied the use of a public building for the purpose of gathering signatures on a petition, the Court shall order that the deadline for filing the petition provided pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be extended for a period equal to the time that the person was denied the use of a public building for the purpose of gathering signatures on a petition, but in no event may the deadline be extended for a period of more than 5 days.*

5. The Secretary of State may adopt regulations to carry out the provisions of subsection 3.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in ~~July~~ **June** must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in ~~June~~ **May** and not later than the fourth Tuesday in ~~July~~ **June**. The petition may consist of more than one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and



(b) May be elected only at a general election, and his name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in ~~[July]~~ *June* and on or before 5 p.m. ~~[of the second Tuesday in September]~~ *on the first Tuesday after the primary election* must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. ~~[of the second Tuesday in September]~~ *on the first Tuesday after the primary election* of the year in which the general election is held. If a nominee dies after that time and date, his name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the ~~[second Tuesday in September]~~ *first Tuesday after the primary election*. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 8. NRS 293.166 is hereby amended to read as follows:

293.166 1. A vacancy occurring in a party nomination for the office of State Senator or Assemblyman from a legislative district comprising more than one county may be filled as follows, subject to the provisions of subsections 2 and 3. The county commissioners of each county, all or part of which is included within the legislative district, shall meet to appoint a person who is of the same political party as the former nominee and who actually, as opposed to constructively, resides in the district to fill the vacancy, under the chairmanship of the chairman of the board of county commissioners of the county whose population residing within the district is the greatest. Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy. Then, the boards shall meet jointly and the chairmen on behalf of the boards shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of its county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce. The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each as a group select one candidate, and the nominee must be chosen by drawing lots among the persons so selected.

2. No change may be made on the ballot after the ~~[second Tuesday in September]~~ *first Tuesday after the primary election* of



1 the year in which the general election is held. If a nominee dies after
2 that date, his name must remain on the ballot and, if elected, a
3 vacancy exists.

4 3. The designation of a nominee pursuant to this section must
5 be filed with the Secretary of State before 5 p.m. ~~[of the second~~
6 ~~Tuesday in September,]~~ *on the first Tuesday after the primary*
7 *election*, and the statutory filing fee must be paid with the
8 designation.

9 **Secs. 9 and 10.** (Deleted by amendment.)

10 **Sec. 11.** NRS 293.175 is hereby amended to read as follows:

11 293.175 1. The primary election must be held on the ~~[first~~
12 ~~Tuesday of September,]~~ *twelfth Tuesday before the general election*
13 in each even-numbered year.

14 2. Candidates for partisan office of a major political party and
15 candidates for nonpartisan office must be nominated at the primary
16 election.

17 3. Candidates for partisan office of a minor political party must
18 be nominated in the manner prescribed pursuant to NRS 293.171 to
19 293.174, inclusive.

20 4. Independent candidates for partisan office must be
21 nominated in the manner provided in NRS 293.200.

22 5. The provisions of NRS 293.175 to 293.203, inclusive, do not
23 apply to:

24 (a) Special elections to fill vacancies.

25 (b) The nomination of the officers of incorporated cities.

26 (c) The nomination of district officers whose nomination is
27 otherwise provided for by statute.

28 **Sec. 12.** NRS 293.176 is hereby amended to read as follows:

29 293.176 1. Except as otherwise provided in subsection 2, no
30 person may be a candidate of a major political party for partisan
31 office in any election if he has changed:

32 (a) The designation of his political party affiliation; or

33 (b) His designation of political party from nonpartisan to a
34 designation of a political party affiliation,

35 ➔ on an application to register to vote in the State of Nevada or in
36 any other state during the time beginning on ~~[September 1]~~
37 *December 31* preceding the closing filing date for that election and
38 ending on the date of that election whether or not his previous
39 registration was still effective at the time of the change in party
40 designation.

41 2. The provisions of subsection 1 do not apply to any person
42 who is a candidate of a political party that was not qualified
43 pursuant to NRS 293.171 on the ~~[September 1]~~ *December 31* next
44 preceding the closing filing date for the election.



Secs. 13-27. (Deleted by amendment.)

Sec. 28. NRS 293.345 is hereby amended to read as follows:

293.345 The county clerk shall mail to each registered voter in each mailing precinct and in each absent ballot mailing precinct, before 5 p.m. on the ~~[third Thursday in August]~~ *second Thursday before the primary election* and before 5 p.m. on the fourth Tuesday in October of any year in which a general election is to be held, an official mailing ballot to be voted by him at the election.

Sec. 29. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[July]~~ *June*, his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, he shall be deemed nominated and there shall be a vacancy in the nomination that must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. ~~[of the second Tuesday in September]~~ *on the first Tuesday after the primary election*, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Secs. 30 and 31. (Deleted by amendment.)

Sec. 32. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field



1 registrar. A field registrar serves at the pleasure of the county clerk
2 and shall perform his duties as the county clerk may direct.

3 3. A field registrar shall demand of any person who applies for
4 registration all information required by the application to register to
5 vote and shall administer all oaths required by this chapter.

6 4. When a field registrar has in his possession five or more
7 completed applications to register to vote, he shall forward them to
8 the county clerk, but in no case may he hold any number of them for
9 more than 10 days.

10 5. Each field registrar shall forward to the county clerk all
11 completed applications in his possession immediately after the fifth
12 Sunday preceding an election. Within 5 days after the fifth Sunday
13 preceding any general election or general city election, a field
14 registrar shall return all unused applications in his possession to the
15 county clerk. If all of the unused applications are not returned to the
16 county clerk, the field registrar shall account for the unreturned
17 applications.

18 6. Each field registrar shall submit to the county clerk a list of
19 the serial numbers of the completed applications to register to vote
20 and the names of the electors on those applications. The serial
21 numbers must be listed in numerical order.

22 7. Each field registrar shall post notices sent to him by the
23 county clerk for posting in accordance with the election laws of this
24 State.

25 8. A field registrar, employee of a voter registration agency or
26 person assisting a voter pursuant to subsection 12 of NRS 293.5235
27 shall not:

28 (a) Delegate any of his duties to another person; or

29 (b) Refuse to register a person on account of that person's
30 political party affiliation.

31 9. A person shall not hold himself out to be or attempt to
32 exercise the duties of a field registrar unless he has been so
33 appointed.

34 10. A county clerk, field registrar, employee of a voter
35 registration agency or person assisting a voter pursuant to subsection
36 12 of NRS 293.5235 shall not:

37 (a) Solicit a vote for or against a particular question or
38 candidate;

39 (b) Speak to a voter on the subject of marking his ballot for or
40 against a particular question or candidate; or

41 (c) Distribute any petition or other material concerning a
42 candidate or question which will be on the ballot for the ensuing
43 election,

44 ➡ while he is registering an elector.



1 11. When the county clerk receives applications to register to
2 vote from a field registrar, he shall issue a receipt to the field
3 registrar. The receipt must include:

- 4 (a) The number of persons registered; and
5 (b) The political party of the persons registered.

6 12. A county clerk, field registrar, employee of a voter
7 registration agency or person assisting a voter pursuant to subsection
8 12 of NRS 293.5235 shall not:

9 (a) Knowingly register a person who is not a qualified elector or
10 a person who has filed a false or misleading application to register
11 to vote; *or*

12 ~~(b) [Alter or deface an application to register to vote that has
13 been signed by an elector except to correct information contained in
14 the application after receiving notice from the elector that a change
15 in or addition to the information is required; or~~

16 ~~—(c)]~~ Register a person who fails to provide satisfactory proof of
17 identification and the address at which he actually resides.

18 13. *A county clerk, field registrar, employee of a voter
19 registration agency, person assisting a voter pursuant to
20 subsection 12 of NRS 293.5235 or any other person providing a
21 form for the application to register to vote to an elector for the
22 purpose of registering to vote:*

23 *(a) If the person who assists an elector with completing the
24 form for the application to register to vote retains the form, shall
25 enter his name on the duplicate copy or receipt retained by the
26 voter upon completion of the form; and*

27 *(b) Shall not alter, deface or destroy an application to register
28 to vote that has been signed by an elector except to correct
29 information contained in the application after receiving notice
30 from the elector that a change in or addition to the information is
31 required.*

32 14. If a field registrar violates any of the provisions of this
33 section, the county clerk shall immediately suspend the field
34 registrar and notify the district attorney of the county in which the
35 violation occurred.

36 ~~[H4.]~~ 15. A person who violates any of the provisions of
37 subsection 8, 9, 10, ~~[or]~~ 12 *or* 13 is guilty of a category E felony
38 and shall be punished as provided in NRS 193.130.

39 **Sec. 33.** NRS 293.507 is hereby amended to read as follows:

40 293.507 1. The Secretary of State shall prescribe:

- 41 (a) A standard form for applications to register to vote; and
42 (b) A special form for registration to be used in a county where
43 registrations are performed and records of registration are kept by
44 computer.



2. The county clerks shall provide forms for applications to register to vote to field registrars in the form and number prescribed by the Secretary of State.

3. ~~[A]~~ *Each* form for an application to register to vote must include a ~~[duplicate copy or receipt to]~~:

(a) *Unique control number assigned by the Secretary of State; and*

(b) *Receipt which:*

(1) *Includes a space for a person assisting a voter in completing the form to enter his name; and*

(2) *May* be retained by the applicant upon completion of the form.

4. The form for an application to register to vote must include:

(a) A line for use by the county clerk to enter:

(1) The number indicated on the voter's current and valid driver's license issued by the Department of Motor Vehicles, if the voter has such a driver's license;

(2) The last four digits of the voter's social security number, if the voter does not have a driver's license issued by the Department of Motor Vehicles and does have a social security number; or

(3) The number issued to the voter pursuant to subsection 5, if the voter does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number.

(b) A line on which to enter the address at which the voter actually resides, as set forth in NRS 293.486.

(c) A notice that the voter may not list a business as the address required pursuant to paragraph (b) unless he actually resides there.

(d) A line on which to enter an address at which the voter may receive mail, including, without limitation, a post office box or general delivery.

5. If a voter does not have the identification set forth in subparagraph (1) or (2) of paragraph (a) of subsection 4, the voter shall sign an affidavit stating that he does not have a current and valid driver's license issued by the Department of Motor Vehicles or a social security number. Upon receipt of the affidavit, the county clerk shall issue an identification number to the voter which must be the same number as the unique identifier assigned to the voter for purposes of the statewide voter registration list.

6. The Secretary of State shall adopt regulations to carry out the provisions of subsections **3**, 4 and 5.

Sec. 34. NRS 293B.063 is hereby amended to read as follows:

293B.063 No mechanical voting system may be used in this State unless it meets or exceeds the standards for voting systems



1 established by the Federal Election Commission ~~§~~ *pursuant to*
2 *federal law.*

3 **Sec. 34.5.** NRS 293B.104 is hereby amended to read as
4 follows:

5 293B.104 The Secretary of State shall not approve any
6 mechanical voting system which does not meet or exceed the
7 standards for voting systems established by the Federal Election
8 Commission ~~§~~ *pursuant to federal law.*

9 **Sec. 35.** NRS 293B.354 is hereby amended to read as follows:

10 293B.354 1. The county clerk shall, not later than ~~July 1~~
11 *June 15* of each year in which a general election is held, submit to
12 the Secretary of State for his approval a written plan for the
13 accommodation of members of the general public who observe the
14 delivery, counting, handling and processing of ballots at a polling
15 place, receiving center or central counting place.

16 2. The city clerk shall, not later than January 1 of each year in
17 which a general city election is held, submit to the Secretary of State
18 for his approval a written plan for the accommodation of members
19 of the general public who observe the delivery, counting, handling
20 and processing of the ballots at a polling place, receiving center or
21 central counting place.

22 3. Each plan must include:

23 (a) The location of the central counting place and of each polling
24 place and receiving center;

25 (b) A procedure for the establishment of areas within each
26 polling place and receiving center and the central counting place
27 from which members of the general public may observe the
28 activities set forth in subsections 1 and 2;

29 (c) The requirements concerning the conduct of the members of
30 the general public who observe the activities set forth in subsections
31 1 and 2; and

32 (d) Any other provisions relating to the accommodation of
33 members of the general public who observe the activities set forth in
34 subsections 1 and 2 which the county or city clerk considers
35 appropriate.

36 **Secs. 36-51.** (Deleted by amendment.)

37 **Sec. 52.** Section 5.020 of the Charter of the City of Reno,
38 being chapter 662, Statutes of Nevada 1971, as last amended by
39 chapter 100, Statutes of Nevada 1999, at page 274, is hereby
40 amended to read as follows:

41 Sec. 5.020 Primary elections; declaration of candidacy.

42 1. A candidate for any office to be voted for at an
43 election must file a declaration of candidacy with the City
44 Clerk. All filing fees collected by the City Clerk must be
45 deposited to the credit of the General Fund of the City.



1 2. If for any general election, there are three or more
2 candidates for any office to be filled at that election, a
3 primary election for any such office must be held on the ~~first~~
4 ~~Tuesday in September preceding the~~ *date fixed by the*
5 *election laws of this State for statewide elections, at which*
6 *time there must be nominated candidates for the office to be*
7 *voted for at the next* general election. If for any general
8 election there are two or fewer candidates for any office to be
9 filled at that election, their names must not be placed on the
10 ballot for the primary election but must be placed on the
11 ballot for the general election.

12 3. In the primary election:

13 (a) The names of the two candidates for Municipal Judge,
14 City Attorney or a particular City Council seat, as the case
15 may be, who receive the highest number of votes must be
16 placed on the ballot for the general election.

17 (b) Candidates for Councilman who represent a specific
18 ward must be voted upon only by the registered voters of that
19 ward.

20 (c) Candidates for Mayor and Councilman at large must
21 be voted upon by all registered voters of the City.

22 4. The Mayor and all Councilmen must be voted upon
23 by all registered voters of the City at the general election.



