

ASSEMBLY BILL NO. 516—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

(ON BEHALF OF THE ATTORNEY GENERAL)

MARCH 23, 2007

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

SUMMARY—Revises provisions governing the review of arguments advocating and opposing the approval of certain measures proposed by initiative or referendum. (BDR 24-522)

FISCAL NOTE: Effect on Local Government: No.
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; revising provisions governing the review of arguments advocating and opposing the approval of certain measures proposed by initiative or referendum; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides a procedure by which committees prepare arguments
2 advocating and opposing the approval of certain measures proposed by initiative or
3 referendum on the ballot at statewide and local elections. Under this procedure, the
4 Secretary of State or county or city clerk, as applicable, is required to reject each
5 statement contained in such arguments that he believes is libelous or factually
6 inaccurate. The committee that prepared a rejected statement may appeal the
7 rejection to the Attorney General concerning statewide measures or the district
8 attorney or city attorney concerning local measures. The Attorney General, district
9 attorney or city attorney, as applicable, is required to review the decision and
10 determine whether the statement should be rejected or accepted, which
11 determination is a final decision for the purposes of judicial review. (NRS 293.252,
12 295.121, 295.217) This bill eliminates the role of the Attorney General, district
13 attorney and city attorney in the review of a decision to reject such a statement by
14 the Secretary of State or county or city clerk, as applicable, and provides for the
15 appeal of such a decision by a committee directly to district court.



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

1 **Section 1.** NRS 293.252 is hereby amended to read as follows:
2 293.252 1. For each constitutional amendment or statewide
3 measure proposed by initiative or referendum to be placed on the
4 ballot by the Secretary of State, the Secretary of State shall, pursuant
5 to subsection 4, appoint two committees. Except as otherwise
6 provided in subsection 2, one committee must be composed of three
7 persons who favor approval by the voters of the initiative or
8 referendum and the other committee must be composed of three
9 persons who oppose approval by the voters of the initiative or
10 referendum.

11 2. If the Secretary of State is unable to appoint three persons
12 who are willing to serve on a committee, he may appoint fewer than
13 three persons to that committee, but he must appoint at least one
14 person to each committee appointed pursuant to this section.

15 3. With respect to a committee appointed pursuant to this
16 section:

17 (a) A person may not serve simultaneously on the committee
18 that favors approval by the voters of an initiative or referendum and
19 the committee that opposes approval by the voters of that initiative
20 or referendum.

21 (b) Members of the committee serve without compensation.

22 (c) The term of office for each member commences upon
23 appointment and expires upon the publication of the sample ballot
24 containing the initiative or referendum.

25 4. The Secretary of State shall consider appointing to a
26 committee pursuant to this section:

27 (a) Any person who has expressed an interest in serving on the
28 committee; and

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

32 5. A committee appointed pursuant to this section:

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

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

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

37 (d) Shall, based on whether the members were appointed to
38 advocate or oppose approval by the voters of the initiative or
39 referendum, prepare an argument either advocating or opposing
40 approval by the voters of the initiative or referendum;

41 (e) Shall prepare a rebuttal to the argument prepared by the other
42 committee appointed pursuant to this section;



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(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the initiative or referendum;

(2) The environmental impact of the initiative or referendum;

and

(3) The impact of the initiative or referendum on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the Secretary of State not later than the date prescribed by the Secretary of State pursuant to subsection 6.

6. The Secretary of State shall provide, by rule or regulation:

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

(b) The date by which an argument and rebuttal prepared pursuant to this section must be submitted by a committee to the Secretary of State.

7. Upon receipt of an argument or rebuttal prepared pursuant to this section, the Secretary of State:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative or referendum pertains; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

➤ *The decision of the Secretary of State to reject a statement pursuant to this subsection is a final decision for the purposes of judicial review.* Not later than 5 days after the Secretary of State rejects a statement pursuant to this subsection, the committee that prepared the statement may appeal that rejection ~~to the Attorney General. The Attorney General shall review the statement and the reasons for its rejection and may receive evidence, documentary or testimonial, to aid him in his decision. Not later than 3 business days after the appeal by the committee, the Attorney General shall issue his decision rejecting or accepting the statement. The decision of the Attorney General is a final decision for the purposes of judicial review.~~ *by filing a complaint in the First Judicial District Court. The Court shall set the matter for hearing not later than 3 working days after the complaint is filed and shall give priority to such a complaint over all other matters pending before the court, except for criminal proceedings.*

8. The Secretary of State may revise the language submitted by a committee pursuant to this section so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect of the language without the consent of the committee.



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Sec. 2. NRS 295.121 is hereby amended to read as follows:

295.121 1. In a county whose population is 40,000 or more, for each initiative, referendum or other question to be placed on the ballot by:

(a) The board, including, without limitation, pursuant to NRS 293.482, 295.115 or 295.160;

(b) The governing body of a school district, public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the county; or

(c) A metropolitan police committee on fiscal affairs authorized by law to submit questions to some or all of the qualified electors or registered voters of the county,

↳ the board shall, in consultation with the county clerk pursuant to subsection 5, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the county clerk pursuant to subsection 5, the board is unable to appoint three persons who are willing to serve on a committee, the board may appoint fewer than three persons to that committee, but the board must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The county clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The county clerk, after exercising due diligence to locate persons who favor approval by the voters of an initiative, referendum or other question to be placed on the ballot or who oppose approval by the voters of an initiative, referendum or other question to be placed on the ballot, may use the names on a list established pursuant to this subsection to:

(a) Make recommendations pursuant to subsection 5; and

(b) Appoint members to a committee pursuant to subsection 6.



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5. Before the board appoints a committee pursuant to this section, the county clerk shall:

(a) Recommend to the board persons to be appointed to the committee; and

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

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

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

6. If the board of a county whose population is 40,000 or more fails to appoint a committee as required pursuant to this section, the county clerk shall, in consultation with the district attorney, prepare an argument advocating approval by the voters of the initiative, referendum or other question and an argument opposing approval by the voters of the initiative, referendum or other question. Each argument prepared by the county clerk must satisfy the requirements of paragraph (f) of subsection 7 and any rules or regulations adopted by the county clerk pursuant to subsection 8. The county clerk shall not prepare the rebuttal of the arguments required pursuant to paragraph (e) of subsection 7.

7. A committee appointed pursuant to this section:

(a) Shall elect a chairman for the committee;

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

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

(d) Shall prepare an argument either advocating or opposing approval by the voters of the initiative, referendum or other question, based on whether the members were appointed to advocate or oppose approval by the voters of the initiative, referendum or other question;

(e) Shall prepare a rebuttal to the argument prepared by the other committee appointed pursuant to this section;

(f) Shall address in the argument and rebuttal prepared pursuant to paragraphs (d) and (e):

(1) The fiscal impact of the initiative, referendum or other question;

(2) The environmental impact of the initiative, referendum or other question; and

(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the county clerk not later than the date prescribed by the county clerk pursuant to subsection 8.



8. The county clerk of a county whose population is 40,000 or more shall provide, by rule or regulation:

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

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

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the county clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

➔ *The decision of the county clerk to reject a statement pursuant to this subsection is a final decision for purposes of judicial review.* Not later than 5 days after the county clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection ~~to the district attorney. The district attorney shall review the statement and the reasons for its rejection and may receive evidence, documentary or testimonial, to aid him in his decision. Not later than 3 business days after the appeal by the committee, the district attorney shall issue his decision rejecting or accepting the statement. The decision of the district attorney is a final decision for the purposes of judicial review. If the decision of the district attorney is challenged~~ by filing a complaint in district court. ~~[, the]~~ *The* court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

10. The county clerk shall place in the sample ballot provided to the registered voters of the county each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The county clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.

11. In a county whose population is less than 40,000:

(a) The board may appoint committees pursuant to this section.

(b) If the board appoints committees pursuant to this section, the county clerk shall provide for rules or regulations pursuant to subsection 8.

12. Except as otherwise provided in this subsection, if a question is to be placed on the ballot by an entity described in



paragraph (b) or (c) of subsection 1, the entity must provide a copy and explanation of the question to the county clerk at least 30 days earlier than the date required for the submission of such documents pursuant to subsection 1 of NRS 293.481. This subsection does not apply to a question if the date that the question must be submitted to the county clerk is governed by subsection 2 of NRS 293.481.

13. The provisions of chapter 241 of NRS do not apply to any consultations, deliberations, hearings or meetings conducted pursuant to this section.

Sec. 3. NRS 295.217 is hereby amended to read as follows:

295.217 1. In a city whose population is 10,000 or more, for each initiative, referendum or other question to be placed on the ballot by the:

(a) Council, including, without limitation, pursuant to NRS 293.482 or 295.215; or

(b) Governing body of a public library or water district authorized by law to submit questions to some or all of the qualified electors or registered voters of the city,

the council shall, in consultation pursuant to subsection 5 with the city clerk or other city officer authorized to perform the duties of the city clerk, appoint two committees. Except as otherwise provided in subsection 2, one committee must be composed of three persons who favor approval by the voters of the initiative, referendum or other question and the other committee must be composed of three persons who oppose approval by the voters of the initiative, referendum or other question.

2. If, after consulting with the city clerk pursuant to subsection 5, the council is unable to appoint three persons willing to serve on a committee, the council may appoint fewer than three persons to that committee, but the council must appoint at least one person to each committee appointed pursuant to this section.

3. With respect to a committee appointed pursuant to this section:

(a) A person may not serve simultaneously on the committee that favors approval by the voters of an initiative, referendum or other question and the committee that opposes approval by the voters of that initiative, referendum or other question.

(b) Members of the committee serve without compensation.

(c) The term of office for each member commences upon appointment and expires upon the publication of the sample ballot containing the initiative, referendum or other question.

4. The city clerk may establish and maintain a list of the persons who have expressed an interest in serving on a committee appointed pursuant to this section. The city clerk, after exercising due diligence to locate persons who favor approval by the voters of



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1 an initiative, referendum or other question to be placed on the ballot
2 or who oppose approval by the voters of an initiative, referendum or
3 other question to be placed on the ballot, may use the names on a list
4 established pursuant to this subsection to:

5 (a) Make recommendations pursuant to subsection 5; and

6 (b) Appoint members to a committee pursuant to subsection 6.

7 5. Before the council appoints a committee pursuant to this
8 section, the city clerk shall:

9 (a) Recommend to the council persons to be appointed to the
10 committee; and

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

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

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

17 6. If the council of a city whose population is 10,000 or more
18 fails to appoint a committee as required pursuant to this section, the
19 city clerk shall, in consultation with the city attorney, prepare an
20 argument advocating approval by the voters of the initiative,
21 referendum or other question and an argument opposing approval by
22 the voters of the initiative, referendum or other question. Each
23 argument prepared by the city clerk must satisfy the requirements of
24 paragraph (f) of subsection 7 and any rules or regulations adopted
25 by the city clerk pursuant to subsection 8. The city clerk shall not
26 prepare the rebuttal of the arguments required pursuant to paragraph
27 (e) of subsection 7.

28 7. A committee appointed pursuant to this section:

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

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

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

33 (d) Shall prepare an argument either advocating or opposing
34 approval by the voters of the initiative, referendum or other
35 question, based on whether the members were appointed to advocate
36 or oppose approval by the voters of the initiative, referendum or
37 other question;

38 (e) Shall prepare a rebuttal to the argument prepared by the other
39 committee appointed pursuant to this section;

40 (f) Shall address in the argument and rebuttal prepared pursuant
41 to paragraphs (d) and (e):

42 (1) The fiscal impact of the initiative, referendum or other
43 question;

44 (2) The environmental impact of the initiative, referendum or
45 other question; and



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(3) The impact of the initiative, referendum or other question on the public health, safety and welfare; and

(g) Shall submit the argument and rebuttal prepared pursuant to paragraphs (d), (e) and (f) to the city clerk not later than the date prescribed by the city clerk pursuant to subsection 8.

8. The city clerk of a city whose population is 10,000 or more shall provide, by rule or regulation:

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

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

9. Upon receipt of an argument or rebuttal prepared pursuant to this section, the city clerk:

(a) May consult with persons who are generally recognized by a national or statewide organization as having expertise in the field or area to which the initiative, referendum or other question pertains; and

(b) Shall reject each statement in the argument or rebuttal that he believes is libelous or factually inaccurate.

➔ *The decision of the city clerk to reject a statement pursuant to this subsection is a final decision for purposes of judicial review.*

Not later than 5 days after the city clerk rejects a statement pursuant to this subsection, the committee may appeal that rejection ~~to the city attorney or other city officer appointed to hear the appeal by the city council. The city attorney or other city officer appointed to hear the appeal shall review the statement and the reasons for its rejection and may receive evidence, documentary or testimonial, to aid him in his decision. Not later than 3 business days after the appeal by the committee, the city attorney or other city officer appointed to hear the appeal shall issue his decision rejecting or accepting the statement. The decision of the city attorney or other city officer appointed to hear the appeal is a final decision for the purposes of judicial review. If the decision of the city attorney or other city officer appointed to hear the appeal is challenged~~ by filing a complaint in district court. ~~[-, the]~~ *The* court shall set the matter for hearing not later than 3 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

10. The city clerk shall place in the sample ballot provided to the registered voters of the city each argument and rebuttal prepared pursuant to this section, containing all statements that were not rejected pursuant to subsection 9. The city clerk may revise the language submitted by the committee so that it is clear, concise and suitable for incorporation in the sample ballot, but shall not alter the meaning or effect without the consent of the committee.



1 11. In a city whose population is less than 10,000:

2 (a) The council may appoint committees pursuant to this section.

3 (b) If the council appoints committees pursuant to this section,
4 the city clerk shall provide for rules or regulations pursuant to
5 subsection 8.

6 12. If a question is to be placed on the ballot by an entity
7 described in paragraph (b) of subsection 1, the entity must provide a
8 copy and explanation of the question to the city clerk at least 30
9 days earlier than the date required for the submission of such
10 documents pursuant to subsection 1 of NRS 293.481. This
11 subsection does not apply to a question if the date that the question
12 must be submitted to the city clerk is governed by subsection 2 of
13 NRS 293.481.

