

ASSEMBLY BILL NO. 570—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

(ON BEHALF OF THE CITY OF RENO)

MARCH 26, 2007

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

SUMMARY—Revises certain provisions relating to city
government. (BDR 24-429)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 cities; revising the date upon which the
governing body of a city is required to conduct a canvass
of election returns; providing that the City Attorneys for
Reno and Sparks must be appointed rather than elected;
and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the governing body of a city to complete a canvass of
election returns on or before the fifth working day following an election. (NRS
267.050, 293C.387) **Sections 1 and 2** of this bill amend that requirement to provide
that the canvass of the election returns must be completed on or before the sixth
working day following an election. **Sections 3-5 and 17** of this bill amend the
Charters of the Cities of Caliente, Carlin, Elko and Wells in the same manner.

Existing law requires the City Attorneys of Reno and Sparks to be elected.
Sections 6-16 of this bill revise this requirement to require that the City Attorneys
be appointed by the City Council of their respective cities instead.

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

Section 1. NRS 293C.387 is hereby amended to read as
follows:

293C.387 1. The election returns from a special election,
primary city election or general city election must be filed with the



1 city clerk, who shall immediately place the returns in a safe or vault.
2 No person may handle, inspect or in any manner interfere with the
3 returns until they are canvassed by the mayor and the governing
4 body of the city.

5 2. After the governing body of a city receives the returns from
6 all the precincts and districts in the city, it shall meet with the mayor
7 to canvass the returns. The canvass must be completed on or before
8 the ~~fifth~~ *sixth* working day following the election.

9 3. In completing the canvass of the returns, the governing body
10 of the city and the mayor shall:

11 (a) Note separately any clerical errors discovered; and

12 (b) Take account of the changes resulting from the discovery, so
13 that the result declared represents the true vote cast.

14 4. After the canvass is completed, the governing body of the
15 city and mayor shall declare the result of the canvass.

16 5. The city clerk shall enter upon the records of the governing
17 body of the city an abstract of the result. The abstract must be
18 prepared in the manner prescribed by regulations adopted by the
19 Secretary of State and must contain the number of votes cast for
20 each candidate.

21 6. After the abstract is entered, the:

22 (a) City clerk shall seal the election returns, maintain them in a
23 vault for at least 22 months and give no person access to them
24 during that period, unless access is ordered by a court of competent
25 jurisdiction or by the governing body of the city.

26 (b) Governing body of the city shall, by an order made and
27 entered in the minutes of its proceedings, cause the city clerk to:

28 (1) Certify the abstract;

29 (2) Make a copy of the certified abstract;

30 (3) Make a mechanized report of the abstract in compliance
31 with regulations adopted by the Secretary of State;

32 (4) Transmit a copy of the certified abstract and the
33 mechanized report of the abstract to the Secretary of State within ~~6~~
34 *7* working days after the election; and

35 (5) Transmit on paper or by electronic means to each public
36 library in the city, or post on a website maintained by the city or the
37 city clerk on the Internet or its successor, if any, a copy of the
38 certified abstract within 30 days after the election.

39 7. After the abstract of the results from a:

40 (a) Primary city election has been certified, the city clerk shall
41 certify the name of each person nominated and the name of the
42 office for which he is nominated.

43 (b) General city election has been certified, the city clerk shall:

44 (1) Issue under his hand and official seal to each person
45 elected a certificate of election; and



(2) Deliver the certificate to the persons elected upon their application at the office of the city clerk.

8. The officers elected to the governing body of the city qualify and enter upon the discharge of their respective duties on the first regular meeting of that body next succeeding that in which the canvass of returns was made pursuant to subsection 2.

Sec. 2. NRS 267.050 is hereby amended to read as follows:

267.050 Within ~~§~~ 6 working days after the date of the election the legislative authority of the incorporated city shall:

1. Meet and canvass the returns of the election.

2. Declare the result thereof.

3. Issue certificates of election to the 15 qualified electors having the highest vote therefor.

Sec. 3. Section 5.100 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 67, is hereby amended to read as follows:

Sec. 5.100 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the City Council.

2. The City Council shall meet within ~~§~~ 6 working days after any election and canvass the returns and declare the result. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon the discharge of their respective duties on the 1st Monday in July next following their election.

4. If any election should result in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The Clerk shall then issue to the winner a certificate of election.

Sec. 4. Section 5.090 of the Charter of the City of Carlin, being chapter 344, Statutes of Nevada 1971, at page 616, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place



1 such returns in a safe or vault, and no person shall be
2 permitted to handle, inspect or in any manner interfere with
3 such returns until canvassed by the Board of Councilmen.

4 2. The Board of Councilmen shall meet on *or before* the
5 first ~~[Tuesday]~~ *Wednesday* after any election and canvass the
6 returns and declare the result. The election returns shall then
7 be sealed and kept by the City Clerk for 6 months, and no
8 person shall have access thereto except on order of a court of
9 competent jurisdiction or by order of the Board of
10 Councilmen.

11 3. The City Clerk, under his hand and official seal, shall
12 issue to each person declared to be elected a certificate of
13 election. The officers so elected shall qualify and enter upon
14 the discharge of their respective duties on the 1st Monday in
15 July next following their election.

16 4. If any election should result in a tie, the Board of
17 Councilmen shall summon the candidates who received the
18 tie vote and determine the tie by lot. The Clerk shall then
19 issue to the winner a certificate of election.

20 **Sec. 5.** Section 5.090 of the Charter of the City of Elko, being
21 chapter 276, Statutes of Nevada 1971, as amended by chapter 51,
22 Statutes of Nevada 2001, at page 464, is hereby amended to read as
23 follows:

24 Sec. 5.090 Election returns; canvass; certificates of
25 election; entry of officers upon duties; tie vote procedure.

26 1. The election returns from a municipal election must
27 be filed with the City Clerk, who shall immediately place the
28 returns in a safe or vault. No person may handle, inspect or in
29 any manner interfere with the returns until the returns are
30 canvassed by the City Council.

31 2. The City Council shall meet within ~~[5]~~ *6 working*
32 days after an election and canvass the returns and declare the
33 result. The election returns must be sealed and kept by the
34 City Clerk for 2 years, and no person may have access thereto
35 except on order of a court of competent jurisdiction or by
36 order of the City Council.

37 3. The City Clerk, under his hand and official seal, shall
38 issue to each person declared to be elected a certificate of
39 election. The officers so elected shall qualify and enter upon
40 the discharge of their respective duties on the first Monday in
41 July next following their election.

42 4. If any election should result in a tie, the City Council
43 shall summon the candidates who received the tie vote and
44 determine the tie by lot. The Clerk shall then issue to the
45 winner a certificate of election.



Sec. 6. Section 1.060 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 373, Statutes of Nevada 1979, at page 644, is hereby amended to read as follows:

Sec. 1.060 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) Six Councilmen.

(c) One Municipal Judge and as many additional judges as the City Council deems necessary.

~~[(d) A City Attorney.]~~

2. Such officers shall be elected as provided by this Charter.

Sec. 7. Section 1.090 of the Charter of the City of Reno, being chapter 662, Statutes of Nevada 1971, as last amended by chapter 210, Statutes of Nevada 1997, at page 734, is hereby amended to read as follows:

Sec. 1.090 Appointive officers.

1. The City Council shall provide for the appointment of a City Manager to perform the duties outlined in section 3.020. A vacancy in the office of City Manager must be filled within 6 months.

2. Applicants for the position of City Manager need not be residents of the City or State at the time of their appointment, except that applicants who are residents of the City and who have qualifications equal to those of nonresidents must be given preference in filling the position.

3. The City Council may establish such other appointive offices as it may deem necessary for the operation of the City by designating the position and the qualifications therefor by ordinance. Appointive offices are limited to the head of each department or division except:

(a) One immediate assistant for the Director of Public Works.

(b) Special technical staff members who report directly to the City Manager.

(c) In the Fire Department and Police Department, no positions below the office of Chief.

➤ Appointment of such officers must be made by the City Manager, and the appointment of the Chief of Police and the Fire Chief must be confirmed by the City Council.

4. A City Clerk must be appointed by the City Council.

5. A City Attorney must be appointed by the City Council.



1 **Sec. 8.** Section 1.100 of the Charter of the City of Reno, being
2 chapter 662, Statutes of Nevada 1971, as last amended by chapter
3 210, Statutes of Nevada 1997, at page 734, is hereby amended to
4 read as follows:

5 Sec. 1.100 Appointive officers: Miscellaneous
6 provisions.

7 1. All appointive officers, except the City Clerk and his
8 deputy **[H] and the City Attorney and his assistant attorneys,**
9 shall perform such duties as may be designated by the City
10 Manager.

11 2. Any employee of the City holding a Civil Service
12 rating under the City and who is appointed to any position
13 provided for in section 1.090 does not lose his Civil Service
14 rating while serving in that position.

15 3. All appointive officers are entitled to all employment
16 benefits to which Civil Service employees are entitled.

17 4. The City Council may require from all other officers
18 and employees of the City constituted or appointed under this
19 Charter, except the Mayor and Councilmen, sufficient
20 security for the faithful and honest performance of their
21 respective duties.

22 **Sec. 9.** Section 1.110 of the Charter of the City of Reno, being
23 chapter 662, Statutes of Nevada 1971, at page 1964, is hereby
24 amended to read as follows:

25 Sec. 1.110 Appointive officers: Duties; salary.

26 1. All appointive officers of the City, except the City
27 Manager, **the City Attorney and his assistant attorneys** and
28 the Board of Health, shall perform such duties under the
29 direction of the City Manager **[H]** as may be designated by the
30 City Council.

31 2. All appointive officers of the City shall receive such
32 salary as may be designated by the City Council.

33 **Sec. 10.** Section 3.060 of the Charter of the City of Reno,
34 being chapter 662, Statutes of Nevada 1971, as last amended by
35 chapter 327, Statutes of Nevada 1999, at page 1369, is hereby
36 amended to read as follows:

37 Sec. 3.060 City Attorney: Qualifications; duties; salary.

38 1. **Except as otherwise provided in section 3.070, the**
39 **City Council shall appoint a City Attorney and fix his salary**
40 **by resolution.**

41 2. **The City Attorney is the Chief Legal Officer of the**
42 **City and shall perform such duties as may be designated by**
43 **the City Council or prescribed by ordinance.**

44 3. **The City Attorney is under the general direction and**
45 **supervision of the City Council.**



1 4. The City Attorney must be a duly licensed member of
2 the State Bar of Nevada and a qualified elector within the
3 City. ~~[Once elected, he shall hold office for a term of 4 years~~
4 ~~and until his successor is duly elected and qualified.~~

5 ~~—2.] 5. The City Attorney [is the Legal Officer of the City~~
6 ~~and] shall:~~

7 (a) ~~[Perform such duties as may be designated by~~
8 ~~ordinance;~~

9 ~~—(b)]~~ Be present at all meetings of the City Council;

10 ~~[(e)]~~ (b) Be counsel for the Civil Service Commission;

11 ~~[(d)]~~ (c) Devote his full time to the duties of the office;
12 and

13 ~~[(e)]~~ (d) Not engage in the private practice of law.

14 ~~[3. The City Attorney is entitled to receive a salary as~~
15 ~~fixed by resolution of the City Council.~~

16 ~~—4.] 6. The City Attorney serves at the pleasure of the~~
17 ~~City Council and may be removed by an affirmative vote of~~
18 ~~a majority of the entire membership of the City Council at~~
19 ~~any time.~~

20 7. The City Attorney may appoint and remove such
21 assistants as he may require in the discharge of the duties of
22 his office. Such assistants must not be Civil Service
23 employees. The Council may appropriate such an amount of
24 money as it may deem proper to compensate such assistants.
25 Such assistants who are attorneys and are employed for more
26 than 20 hours per week by the City Attorney shall not engage
27 in the private practice of law.

28 8. *Any elected City Attorney who holds office on*
29 *October 1, 2007, is entitled to serve the remainder of the*
30 *elected term or through the conclusion of the elected term*
31 *expiring in November 2014, whichever occurs later.*

32 **Sec. 11.** Section 1.060 of the Charter of the City of Sparks,
33 being chapter 470, Statutes of Nevada 1975, as last amended by
34 chapter 41, Statutes of Nevada 2001, at page 394, is hereby
35 amended to read as follows:

36 Sec. 1.060 Elective officers: Qualifications; salaries.

37 1. The elective officers of the City consist of:

38 (a) A Mayor.

39 (b) Five members of the Council.

40 (c) ~~[A City Attorney.~~

41 ~~—(d)]~~ Municipal Judges, the number to be determined
42 pursuant to section 4.010.

43 2. All elective officers of the City must be:



(a) Bona fide residents of the City for at least 30 days immediately preceding the last day for filing a declaration of candidacy for such an office.

(b) Residents of the City during their term of office, and, in the case of a member of the Council, a resident of the ward the member represents.

(c) Registered voters within the City.

3. No person may be elected or appointed as a member of the Council who was not an actual bona fide resident of the ward to be represented by him for a period of at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, or, in the case of appointment, 30 days immediately preceding the day the office became vacant.

4. ~~[The City Attorney must be a licensed member of the State Bar of Nevada.~~

~~—5.]~~ Each elective officer is entitled to receive a salary in an amount fixed by the City Council. At any time before January 1 of the year in which a general election is held, the City Council shall enact an ordinance fixing the initial salary for each elective office for the term beginning on the first Monday following that election. This ordinance may not be amended to increase or decrease the salary for the office of Mayor, City Councilman or City Attorney during the term. If the City Council fails to enact such an ordinance before January 1 of the election year, the succeeding elective officers are entitled to receive the same salaries as their respective predecessors.

Sec. 12. Section 1.070 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 395, is hereby amended to read as follows:

Sec. 1.070 Elective offices; vacancies. Except as otherwise provided in NRS 268.325:

1. A vacancy in the City Council, or in the office of ~~[City Attorney or]~~ Municipal Judge must be filled by appointment of the Mayor, subject to confirmation by the City Council, within 30 days after the occurrence of the vacancy. A person may be selected to fill a prospective vacancy in the City Council before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. If the majority of the Council is unable or refuses for any reason to confirm any appointment



1 made by the Mayor within 30 days after the vacancy occurs,
2 the City Council shall present to the Mayor the names of two
3 qualified persons to fill the vacancy. The Mayor shall, within
4 15 days after the presentation, select one of the two qualified
5 persons to fill the vacancy. The appointee must have the same
6 qualifications required of the elected official.

7 2. A vacancy in the office of the Mayor must be filled by
8 the Mayor pro tempore. The resulting vacancy in the City
9 Council must be filled as provided in subsection 1.

10 3. The appointee or Mayor pro tempore, in case of a
11 vacancy in the office of Mayor, shall serve until his successor
12 is elected and qualified at the next election to serve the
13 remainder of the unexpired term.

14 **Sec. 13.** Section 1.080 of the Charter of the City of Sparks,
15 being chapter 470, Statutes of Nevada 1975, as last amended by
16 chapter 129, Statutes of Nevada 1993, at page 229, is hereby
17 amended to read as follows:

18 Sec. 1.080 Appointive positions.

19 1. The Mayor of the City shall appoint a City Manager,
20 subject to confirmation by the City Council.

21 2. Subject to confirmation by the City Council, the City
22 Manager shall appoint:

23 (a) The heads of the Fire and Police departments and one
24 technical assistant in each of those departments. A technical
25 assistant may not supervise any other employees.

26 (b) Any employee employed in a bona fide executive,
27 administrative or professional capacity. As used in this
28 paragraph:

29 (1) "Employee employed in a bona fide executive
30 capacity" has the meaning ascribed to it in 29 C.F.R. § 541.1,
31 as that section existed on October 1, 1993.

32 (2) "Employee employed in a bona fide administrative
33 capacity" has the meaning ascribed to it in 29 C.F.R. § 541.2,
34 as that section existed on October 1, 1993.

35 (3) "Employee employed in a bona fide professional
36 capacity" has the meaning ascribed to it in 29 C.F.R. § 541.3,
37 as that section existed on October 1, 1993.

38 *(c) The City Attorney.*

39 3. The City Council shall create and revise as necessary
40 a document which:

41 (a) Describes the organization of all departments,
42 divisions and offices of the City; and

43 (b) Sets forth all appointive positions of the City.



1 **Sec. 14.** Section 3.050 of the Charter of the City of Sparks,
2 being chapter 470, Statutes of Nevada 1975, as last amended by
3 chapter 129, Statutes of Nevada 1993, at page 231, is hereby
4 amended to read as follows:

5 Sec. 3.050 City Attorney: Duties . ~~[- Assistant City~~

6 ~~Attorneys.~~

7 ~~—1.]~~ The City Attorney shall:

8 ~~[(a)]~~ 1. Be the Legal Officer of the City.

9 ~~[(b)]~~ 2. Represent the City and any officer or employee
10 or former officer or employee of the City, for any act arising
11 out of his employment or duties, in any action or proceeding
12 in which the City or such officer or employee is concerned or
13 is a party.

14 ~~[(c)]~~ 3. Perform such duties as may be designated by
15 ~~ordinance.~~

16 ~~—(d)]~~ *the City Manager and such other duties as may be*
17 *directed by the City Council.*

18 4. Attend all regular, special and emergency meetings of
19 the City Council, and may attend executive sessions
20 concerning public officers.

21 ~~[(e)]~~ 5. Approve any contract made by and any bond or
22 security given to the City endorsing his approval in writing on
23 the document.

24 ~~[(f)]~~ 6. Prepare all proposed ordinances and review all
25 resolutions and amendments to the ordinances or resolutions.

26 ~~[(g)]~~ 7. Not engage in any other business or occupation
27 nor in the private practice of law without the approval of the
28 City Council.

29 ~~[2.—The City Attorney may appoint and remove or~~
30 ~~discharge assistant city attorneys pursuant to ordinances~~
31 ~~adopted relating thereto. The City Council may appropriate~~
32 ~~the money it considers proper to compensate such assistants.~~

33 ~~—3.—An Assistant City Attorney who is removed from his~~
34 ~~position by the City Attorney has the right of appeal to the~~
35 ~~Mayor and City Council and may demand a hearing before~~
36 ~~the City Council. The demand must be made within 10 days~~
37 ~~after the removal. The decision of the City Council upon the~~
38 ~~hearing is final.]~~

39 8. *Any elected City Attorney who holds office on*
40 *October 1, 2007, is entitled to serve the remainder of the*
41 *elected term.*



1 **Sec. 15.** Section 5.010 of the Charter of the City of Sparks,
2 being chapter 470, Statutes of Nevada 1975, as last amended by
3 chapter 52, Statutes of Nevada 2005, at page 104, is hereby
4 amended to read as follows:

5 Sec. 5.010 General elections.

6 1. On the Tuesday after the first Monday in June 2001,
7 there must be elected by the registered voters of the City, at a
8 general municipal election, Council members to represent the
9 first, third and fifth wards, *and* a Municipal Judge for
10 Department 1, ~~{and a City Attorney,}~~ all of whom hold office
11 until their successors have been elected and qualified,
12 pursuant to subsection 3 or 4.

13 2. On the Tuesday after the first Monday in June 2003,
14 there must be elected by the registered voters of the City, at a
15 general municipal election, Council members to represent the
16 second and fourth wards, a Mayor and a Municipal Judge for
17 Department 2, all of whom hold office until their successors
18 have been elected and qualified, pursuant to subsection 5 or 6.

19 3. On the Tuesday after the first Monday in November
20 2004, and at each successive interval of 4 years, there must be
21 elected by the registered voters of the City, at the general
22 election, Council members to represent the first, third and
23 fifth wards, ~~{and a City Attorney,}~~ all of whom hold office
24 for a term of 4 years and until their successors have been
25 elected and qualified.

26 4. On the Tuesday after the first Monday in November
27 2004, and at each successive interval of 4 years, there must be
28 elected by the registered voters of the City, at the general
29 election, a Municipal Judge for Department 1, who holds
30 office for a term of 4 years and until his successor has been
31 elected and qualified, pursuant to subsection 7.

32 5. On the Tuesday after the first Monday in November
33 2006, and at each successive interval of 4 years, there must be
34 elected by the registered voters of the City, at the general
35 election, Council members to represent the second and fourth
36 wards and a Mayor, all of whom hold office for a term of 4
37 years and until their successors have been elected and
38 qualified.

39 6. On the Tuesday after the first Monday in November
40 2006, and at each successive interval of 6 years, there must be
41 elected by the registered voters of the City, at the general
42 election, a Municipal Judge for Department 2, who holds
43 office for a term of 6 years and until his successor has been
44 elected and qualified.



7. On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected by the registered voters of the City, at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his successor has been elected and qualified.

8. All candidates at an election that is held pursuant to this section must be voted upon by the registered voters of the City at large.

Sec. 16. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary *municipal* elections.

1. Candidates for the offices of Mayor ~~[, City Attorney]~~ and Municipal Judge must be voted upon by the registered voters of the City at large. Candidates to represent a ward as a member of the City Council must be voted upon by the registered voters of the ward to be represented by them.

2. The names of the two candidates for Mayor ~~[, City Attorney]~~ and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 17. Section 5.090 of the Charter of the City of Wells, being chapter 275, Statutes of Nevada 1971, at page 470, is hereby amended to read as follows:

Sec. 5.090 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any municipal election shall be filed with the City Clerk, who shall immediately place such returns in a safe or vault, and no person shall be permitted to handle, inspect or in any manner interfere with such returns until canvassed by the Board of Councilmen.

2. The Board of Councilmen shall meet on *or before* the ~~[1st Tuesday]~~ *first Wednesday* after any election and canvass the returns and declare the result. The election returns shall then be sealed and kept by the City Clerk for 6 months, and no person shall have access thereto except on order of a court of competent jurisdiction or by order of the Board of Councilmen.

3. The City Clerk, under his hand and official seal, shall issue to each person declared to be elected a certificate of election. The officers so elected shall qualify and enter upon



1 the discharge of their respective duties on the 1st Monday in
2 July next following their election.

3 4. If any election should result in a tie, the Board of
4 Councilmen shall summon the candidates who received the
5 tie vote and determine the tie by lot. The Clerk shall then
6 issue to the winner a certificate of election.

