

SENATE BILL NO. 549—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

MARCH 26, 2007

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes to provisions governing certain petitions. (BDR 24-1382)

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 a procedure for a petition proposing a statute, an amendment to statute or an amendment to the Constitution to be placed on a ballot; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that an initiative petition be signed by at least 10 percent of the voters who voted at the last preceding general election in at least 75 percent of the counties in the State. (Nev. Const. Art. 19, § 2) The United States District Court for the District of Nevada declared that the above portion of Section 2 of Article 19 of the Nevada Constitution violates the Equal Protection Clause of the United States Constitution because it applies the same formula to counties of varying population. Such application results in the signatures of voters from small, rural counties carrying more weight than the signatures of voters from larger counties. (*Committee to Regulate and Control Marijuana v. Heller*, No. CV-S-04-01035 (D. Nev. Aug. 20, 2004)) The United States Court of Appeals for the Ninth Circuit affirmed the decision of the United States District Court. (*American Civil Liberties Union of Nevada v. Lomax*, 471 F.3d 1010 (9th Cir. Nev. 2006))

Section 8 of this bill requires a petition for initiative or referendum to be signed by a number of registered voters from each assembly district in the State that equals at least 4 percent of the population of the district, as determined by the last preceding decennial census. **Sections 3-6** of this bill provide a procedure for the verification of signatures on a petition proposing a statute, an amendment to statute or an amendment to the Constitution. **Sections 4 and 6** of this bill require the Secretary of State to adopt regulations concerning this procedure. **Sections 8-11** of this bill provide a procedure for circulating such a petition.



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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 a new section to read as follows:

“Assembly district” means a district created pursuant to the provisions of chapter 218 of NRS for the election of members of the Assembly.

Sec. 2. NRS 293.010 is hereby amended to read as follows:

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.


Sec. 3. NRS 293.1276 is hereby amended to read as follows:

293.1276 1. Within 4 days, excluding Saturdays, Sundays and holidays, after the submission of a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the county clerk shall determine the total number of signatures affixed to the documents *and, in the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, shall tally the number of signatures for each assembly district contained fully or partially within his county* and forward that information to the Secretary of State.

2. If the Secretary of State finds that the total number of signatures filed with all the county clerks is less than 100 percent of the required number of registered voters, he shall so notify the person who submitted the petition and the county clerks and no further action may be taken in regard to the petition. If the petition is a petition to recall a county, district or municipal officer, the Secretary of State shall also notify the officer with whom the petition is to be filed.

3. After the petition is submitted to the county clerk, it must not be handled by any other person except by an employee of the county clerk's office until it is filed with the Secretary of State.

Sec. 4. NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county  *and in the case of a petition proposing a statute, an amendment to statute or an amendment to the*



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1 *Constitution, shall tally the number of signatures for each*
2 *assembly district contained fully or partially within his county.*

3 2. If more than 500 names have been signed on the documents
4 submitted to him, a county clerk shall examine the signatures by
5 sampling them at random for verification. The random sample of
6 signatures to be verified must be drawn in such a manner that every
7 signature which has been submitted to the county clerk is given an
8 equal opportunity to be included in the sample. The sample must
9 include an examination of at least 500 or 5 percent of the signatures,
10 whichever is greater.

11 3. In determining from the records of registration the number
12 of registered voters who signed the documents, the county clerk may
13 use the signatures contained in the file of applications to register to
14 vote. If the county clerk uses that file, he shall ensure that every
15 application in the file is examined, including any application in his
16 possession which may not yet be entered into his records. The
17 county clerk shall rely only on the appearance of the signature and
18 the address and date included with each signature in making his
19 determination.

20 4. *In the case of a petition proposing a statute, an amendment*
21 *to statute or an amendment to the Constitution, when the county*
22 *clerk is determining the number of registered voters who signed*
23 *the documents from each assembly district contained fully or*
24 *partially within his county, he may use the statewide voter*
25 *registration list.*

26 5. Except as otherwise provided in subsection ~~[6.]~~ 7, upon
27 completing the examination, the county clerk shall immediately
28 attach to the documents a certificate properly dated, showing the
29 result of his examination , *including the tally of signatures by*
30 *assembly district, if required,* and transmit the documents with the
31 certificate to the Secretary of State. *If an assembly district*
32 *comprises more than one county and the petition proposes a*
33 *statute, an amendment to statute or an amendment to the*
34 *Constitution, the appropriate county clerks shall comply with*
35 *the regulations adopted by the Secretary of State to complete the*
36 *certificate.* A copy of this certificate must be filed in the clerk's
37 office. When the county clerk transmits the certificate to the
38 Secretary of State, the county clerk shall notify the Secretary of
39 State of the number of requests to remove a name received by the
40 county clerk pursuant to NRS 295.055 or 306.015.

41 ~~[5.]~~ 6. A person who submits a petition to the county clerk
42 which is required to be verified pursuant to NRS 293.128, 293.165,
43 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be
44 allowed to witness the verification of the signatures. A public officer



1 who is the subject of a recall petition must also be allowed to
2 witness the verification of the signatures on the petition.

3 ~~[6.]~~ 7. For any petition containing signatures which are
4 required to be verified pursuant to the provisions of NRS 293.165,
5 293.200, 306.035 or 306.110 for any county, district or municipal
6 office within one county, the county clerk shall not transmit to the
7 Secretary of State the documents containing the signatures of the
8 registered voters.

9 ~~[7.]~~ 8. The Secretary of State ~~[may]~~ *shall* by regulation
10 establish further procedures for carrying out the provisions of this
11 section.

12 **Sec. 5.** NRS 293.1278 is hereby amended to read as follows:

13 293.1278 1. If the certificates received by the Secretary of
14 State from all the county clerks establish that the number of valid
15 signatures is less than 90 percent of the required number of
16 registered voters, the petition shall be deemed to have failed to
17 qualify, and the Secretary of State shall immediately so notify the
18 petitioners and the county clerks.

19 2. If those certificates establish that the number of valid
20 signatures is equal to or more than the sum of 100 percent of the
21 number of registered voters needed to make the petition sufficient
22 plus the total number of requests to remove a name received by the
23 county clerks pursuant to NRS 295.055 or 306.015 ~~[.]~~ *and, in the*
24 *case of a petition proposing a statute, an amendment to statute or*
25 *an amendment to the Constitution, that the petition has the*
26 *minimum number of signatures required for each assembly*
27 *district*, the petition shall be deemed to qualify as of the date of
28 receipt by the Secretary of State of those certificates, and the
29 Secretary of State shall immediately so notify the petitioners and the
30 county clerks.

31 3. If the certificates establish that the petitioners have 100
32 percent or more of the number of registered voters needed to make
33 the petition sufficient but the petition fails to qualify pursuant to
34 subsection 2, each county clerk who received a request to remove a
35 name pursuant to NRS 295.055 or 306.015 shall remove each name
36 as requested, amend the certificate and transmit the amended
37 certificate to the Secretary of State. If the amended certificates
38 establish that the petitioners have 100 percent or more of the number
39 of registered voters needed to make the petition sufficient ~~[.]~~ *and, in*
40 *the case of a petition proposing a statute, an amendment to statute*
41 *or an amendment to the Constitution, that the petition has the*
42 *minimum number of signatures required for each assembly*
43 *district*, the petition shall be deemed to qualify as of the date of
44 receipt by the Secretary of State of the amended certificates, and the



1 Secretary of State shall immediately so notify the petitioners and the
2 county clerks.

3 **Sec. 6.** NRS 293.1279 is hereby amended to read as follows:

4 293.1279 1. If the statistical sampling shows that the number
5 of valid signatures filed is 90 percent or more, but less than the sum
6 of 100 percent of the number of signatures of registered voters
7 needed to declare the petition sufficient plus the total number of
8 requests to remove a name received by the county clerks pursuant to
9 NRS 295.055 or 306.015, the Secretary of State shall order the
10 county clerks to examine the signatures for verification. The county
11 clerks shall examine the signatures for verification until they
12 determine that 100 percent of the number of signatures of registered
13 voters needed to declare the petition sufficient are valid. If the
14 county clerks received a request to remove a name pursuant to NRS
15 295.055 or 306.015, the county clerks may not determine that 100
16 percent of the number of signatures of registered voters needed to
17 declare the petition sufficient are valid until they have removed each
18 name as requested pursuant to NRS 295.055 or 306.015.

19 2. ~~HH~~ *Except as otherwise provided in this section, if* the
20 statistical sampling shows that the number of valid signatures filed
21 in any county is 90 percent or more but less than the sum of 100
22 percent of the number of signatures of registered voters needed to
23 constitute 10 percent of the number of voters who voted at the last
24 preceding general election in that county plus the total number of
25 requests to remove a name received by the county clerk in that
26 county pursuant to NRS 295.055 or 306.015, the Secretary of State
27 may order the county clerk in that county to examine every
28 signature for verification. If the county clerk received a request to
29 remove a name pursuant to NRS 295.055 or 306.015, the county
30 clerk may not determine that 100 percent or more of the number of
31 signatures of registered voters needed to constitute 10 percent of the
32 number of voters who voted at the last preceding general election in
33 that county are valid until he has removed each name as requested
34 pursuant to NRS 295.055 or 306.015. *In the case of a petition*
35 *proposing a statute, an amendment to statute or an amendment to*
36 *the Constitution, if the statistical sampling shows that the number*
37 *of valid signatures in any assembly district is 90 percent or more*
38 *but less than the sum of 100 percent of the number of signatures*
39 *of registered voters needed to constitute 4 percent or more of the*
40 *population of the assembly district plus the total number of*
41 *requests to remove a name received by the county clerk in that*
42 *assembly district pursuant to NRS 295.055 or 306.015, the*
43 *Secretary of State may order the county clerk, or county clerks if*
44 *the assembly district comprises more than one county, to examine*
45 *every signature for verification. If an assembly district comprises*



1 *more than one county, the county clerks shall comply with the*
2 *regulations adopted by the Secretary of State to complete the*
3 *certificate.*

4 3. Within 12 days, excluding Saturdays, Sundays and holidays,
5 after receipt of such an order, the county clerk *or clerks* shall
6 determine from the records of registration what number of registered
7 voters have signed the petition **⌘** *and, if appropriate, tally those*
8 *signatures by assembly district.* If necessary, the board of county
9 commissioners shall allow the county clerk additional assistants for
10 examining the signatures and provide for their compensation. In
11 determining from the records of registration what number of
12 registered voters have signed the petition **⌘** *and in determining in*
13 *which assembly district the voters reside,* the county clerk must use
14 the statewide voter registration list. The county clerk may rely on
15 the appearance of the signature and the address and date included
16 with each signature in determining the number of registered voters
17 that signed the petition.

18 4. Except as otherwise provided in subsection 5, upon
19 completing the examination, the county clerk *or county clerks* shall
20 immediately attach to the documents of the petition an amended
21 certificate, properly dated, showing the result of the examination
22 and shall immediately forward the documents with the amended
23 certificate to the Secretary of State. A copy of the amended
24 certificate must be filed in the county clerk's office. *In the case of a*
25 *petition to propose a statute, an amendment to statute or an*
26 *amendment to the Constitution, if an assembly district comprises*
27 *more than one county, the county clerks shall comply with the*
28 *regulations adopted by the Secretary of State to complete the*
29 *amended certificate.*

30 5. For any petition containing signatures which are required to
31 be verified pursuant to the provisions of NRS 293.165, 293.200,
32 306.035 or 306.110 for any county, district or municipal office
33 within one county, the county clerk shall not forward to the
34 Secretary of State the documents containing the signatures of the
35 registered voters.

36 6. Except for a petition to recall a county, district or municipal
37 officer, the petition shall be deemed filed with the Secretary of State
38 as of the date on which he receives certificates from the county
39 clerks showing the petition to be signed by the requisite number of
40 voters of the State.

41 7. If the amended certificates received from all county clerks
42 by the Secretary of State establish that the petition is still
43 insufficient, he shall immediately so notify the petitioners and the
44 county clerks. If the petition is a petition to recall a county, district



1 or municipal officer, the Secretary of State shall also notify the
2 officer with whom the petition is to be filed.

3 *8. The Secretary of State shall adopt regulations to carry out*
4 *the provisions of this section.*

5 **Sec. 7.** Chapter 295 of NRS is hereby amended by adding
6 thereto the provisions set forth as sections 8 and 9 of this act.

7 **Sec. 8. 1.** *A petition for initiative or referendum must be*
8 *proposed by a number of registered voters from each assembly*
9 *district in the State equal to 4 percent or more of the population of*
10 *each assembly district in the State, as determined by the last*
11 *preceding national decennial census conducted by the Bureau of*
12 *the Census of the United States Department of Commerce*
13 *pursuant to Section 2 of Article I of the Constitution of the United*
14 *States and reported by the Secretary of Commerce to the Governor*
15 *pursuant to 13 U.S.C. § 141(c).*

16 *2. When signing a petition, a registered voter must indicate*
17 *the assembly district in which he resides. The registered voter may*
18 *consult the list of the registered voters in this State that each*
19 *circulator of the petition is required to carry with him and may*
20 *rely on the information contained in that list when he indicates the*
21 *appropriate assembly district, unless he believes that the*
22 *information is inaccurate.*

23 *3. A circulator of a petition shall not write in the assembly*
24 *district for any registered voter.*

25 **Sec. 9.** *Each circulator of a petition shall carry with him a*
26 *copy of the list of registered voters that also indicates in which*
27 *assembly district each registered voter resides that was provided to*
28 *the petitioners by the Secretary of State pursuant to NRS 295.015.*

29 **Sec. 10.** NRS 295.015 is hereby amended to read as follows:

30 295.015 1. Before a petition for initiative or referendum may
31 be presented to the registered voters for their signatures, a copy of
32 the petition for initiative or referendum, including the description
33 required pursuant to NRS 295.009, must be placed on file with the
34 Secretary of State.

35 2. Upon receipt of a petition for initiative or referendum placed
36 on file pursuant to subsection 1, the Secretary of State shall
37 **[consult]**:

38 (a) *Provide to the petitioners:*

39 (1) *A current list of the registered voters in this State that*
40 *also indicates in which assembly district each registered voter*
41 *resides; and*

42 (2) *A map or maps indicating the boundaries of each*
43 *assembly district; and*

44 (b) **Consult** with the Fiscal Analysis Division of the Legislative
45 Counsel Bureau to determine if the initiative or referendum may



1 have any anticipated financial effect on the State or local
2 governments if the initiative or referendum is approved by the
3 voters. If the Fiscal Analysis Division determines that the initiative
4 or referendum may have an anticipated financial effect on the State
5 or local governments if the initiative or referendum is approved by
6 the voters, the Division must prepare a fiscal note that includes an
7 explanation of any such effect.

8 3. Not later than 10 business days after the Secretary of State
9 receives a petition for initiative or referendum filed pursuant to
10 subsection 1, the Secretary of State shall post a copy of the petition,
11 including the description required pursuant to NRS 295.009 and any
12 fiscal note prepared pursuant to subsection 2, on his Internet
13 website.

14 *4. The Secretary of State may charge a fee for the list and*
15 *map he provides pursuant to subsection 2 in an amount not to*
16 *exceed the actual cost of producing the copy of the list and map.*

17 *5. As used in this section, the term "assembly district" means*
18 *a district created pursuant to the provisions of chapter 218 of NRS*
19 *for the election of a member of the Assembly.*

20 **Sec. 11.** NRS 295.055 is hereby amended to read as follows:

21 295.055 1. The Secretary of State shall by regulation specify:

22 (a) The format for the signatures on a petition for an initiative or
23 referendum and make free specimens of the format available upon
24 request. Each signature must be dated.

25 (b) The manner of fastening together several sheets circulated by
26 one person to constitute a single document.

27 2. Each document of the petition must ~~bear~~ :

28 (a) *Bear* the name of a county, and only registered voters of that
29 county may sign the document.

30 (b) *Include a space for each registered voter to indicate the*
31 *assembly district in which he resides.*

32 3. A person who signs a petition may request that the county
33 clerk remove his name from it by transmitting his request in writing
34 to the county clerk at any time before the petition is filed with the
35 county clerk.

36 *4. As used in this section, the term "assembly district" means*
37 *a district created pursuant to the provisions of chapter 218 of NRS*
38 *for the election of a member of the Assembly.*

