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 that proposes a statute, an amendment to statute or an amendment to the Constitution to be signed by a number of registered voters from each county in the State determined by applying a flexible formula which is based on the percentage of population of each county in the State so that each signature carries relatively equal weight. **Section 1** of this bill requires the Secretary of State to determine the number of signatures required to be gathered from each county for a petition for initiative proposing a statute, an amendment to statute or an amendment to the Constitution as soon as practicable after each statewide general election. **Section 6** of this bill amends the procedure for the verification of signatures on a petition for initiative proposing a statute, an amendment to statute or an amendment to the Constitution.

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:

1. As soon as practicable after each general election, the Secretary of State shall determine the number of signatures required to be gathered from each county within the State for a petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution.

2. To determine the number of signatures required to be gathered from a county, the Secretary of State shall multiply the amount that equals 4 percent of the total population of the State or the amount that equals 10 percent of the voters who voted in the entire State at the last preceding general election, whichever is less, by the population percentage for that county. If the calculation results in a fraction of a signature being required for a particular county, the Secretary of State shall round up the number of signatures required for the county to the next whole number.

3. As used in this section:

(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).

(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

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

293.1279 1. If the statistical sampling shows that the number of valid signatures filed is 90 percent or more, but less than the sum of 100 percent of the number of signatures of registered voters needed to declare the petition sufficient plus the total number of requests to remove a name received by the county clerks pursuant to

NRS 295.055 or 306.015, the Secretary of State shall order the county clerks to examine the signatures for verification. The county clerks shall examine the signatures for verification until they determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid. If the county clerks received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerks may not determine that 100 percent of the number of signatures of registered voters needed to declare the petition sufficient are valid until they have removed each name as requested pursuant to NRS 295.055 or 306.015.

2. ~~[If]~~ ***Except as otherwise provided in this subsection, if*** the statistical sampling shows that the number of valid signatures filed in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055 or 306.015, the Secretary of State may order the county clerk in that county to examine every signature for verification. If the county clerk received a request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk may not determine that 100 percent or more of the number of signatures of registered voters needed to constitute 10 percent of the number of voters who voted at the last preceding general election in that county are valid until he has removed each name as requested pursuant to NRS 295.055 or 306.015. ***In the case of a petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution, if the statistical sampling shows that the number of valid signatures in any county is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that county pursuant to section 8 of this act plus the total number of requests to remove a name received by the county clerk in that county pursuant to NRS 295.055, the Secretary of State may order the county clerk to examine every signature for verification.***

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk shall determine from the records of registration what number of registered voters have signed the petition. If necessary, the board of county commissioners shall allow the county clerk additional assistants for examining the signatures and provide for their compensation. In determining from the records of registration what number of registered voters have signed the petition, the county clerk must use the statewide voter registration list. The county clerk may rely on the appearance of the

signature and the address and date included with each signature in determining the number of registered voters that signed the petition.

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office.

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

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

7. If the amended certificates received from all county clerks by the Secretary of State establish that the petition is still insufficient, he shall immediately so notify the petitioners and the county clerks. 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.

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

Sec. 8. ***1. Except as otherwise provided in subsection 2, a petition for initiative that proposes a statute, an amendment to statute or an amendment to the Constitution must be proposed by a number of registered voters from each county in the State that is at least equal to:***

(a) Four percent of the total population of the State multiplied by the population percentage for that county; or

(b) Ten percent of the voters who voted in the entire State at the last preceding general election multiplied by the population percentage for that county,

➥ whichever is less.

2. At least one registered voter who resides in each county must sign the petition.

3. As used in this section:

(a) "Total population of the State" means the determination of the total population of the State by the national decennial census conducted by the Bureau of the Census of the United States

Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c).

(b) "Population percentage for that county" means the figure obtained by dividing the population of the county, as determined by the national decennial census conducted by the Bureau of the Census of the United States Department of Commerce pursuant to Section 2 of Article I of the Constitution of the United States and reported by the Secretary of Commerce to the Governor pursuant to 13 U.S.C. § 141(c), by the total population of the State.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

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