

Amendment No. 511

Assembly Amendment to Assembly Bill No. 606

(BDR 24-1395)

Proposed by: Assembly Committee on Elections, Procedures, Ethics, and
Constitutional Amendments

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

SSM/KMG



Date: 4/22/2007

A.B. No. 606—Revises provisions relating to petitions for statewide initiatives and referenda. (BDR 24-1395)



ASSEMBLY BILL NO. 606—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

MARCH 26, 2007

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

SUMMARY—Revises provisions relating to petitions for statewide initiatives and referenda. (BDR 24-1395)

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; requiring certain persons or groups of persons advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum to register with the Secretary of State; prohibiting the compensation of persons who gather signatures on certain petitions on the basis of the number of signatures gathered; requiring persons who gather signatures on certain petitions to be residents of this State; requiring the Secretary of State to make public certain information; ~~creating and providing the composition and duties of the Ballot Review Board;~~ amending provisions relating to legal challenges to certain petitions; providing a civil penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 294A of NRS governs campaign practices. **Section 2** of this bill requires certain persons or groups of persons advocating the passage or defeat of a statewide initiative or referendum to register with the Secretary of State. **Section 3** of this bill prohibits the compensation of persons who gather signatures on statewide initiative and referendum petitions on a per-signature basis. **Section 4** of this bill requires each person gathering signatures on a petition to be a resident of Nevada. **Section 5** of this bill provides that a person or group of persons required to register with the Secretary of State pursuant to **section 3** who fail to so register or who compensate a signature gatherer in violation of **section 3** is subject to a civil penalty.

Chapter 295 of NRS governs petitions for statewide and local initiatives and referenda. **Section 7** of this bill requires the Secretary of State to make public certain information regarding petition signatures. **Section 8** of this bill ~~creates the Ballot Review Board.~~ **provides that the use of an intentional misrepresentation or other fraudulent means to obtain signatures on petitions or forging signatures on petitions is prohibited and provides that the consequence of such behavior is the invalidation of signatures collected by the person found to have committed such behavior or the invalidation of all signatures collected on behalf of the group found to have committed such behavior.**

~~Existing law requires petitions for initiatives and referenda to be filed with the Secretary of State before being presented to registered voters for signatures. (NRS 295.015) Section 9 of~~

~~this bill requires the Secretary of State to then consult with the Ballot Review Board regarding the conformity of the petition with certain technical requirements. Section 9 also authorizes the Ballot Review Board to offer suggestions regarding the petition. Existing law provides for challenges to petitions on initiatives and referenda to be filed with certain district courts. (NRS 295.061) Section 10 of this bill requires that any such complaint must first be heard by the Ballot Review Board.]~~

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

Section 1. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *Each person or group of persons organized formally or informally who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum shall register, before engaging in any such advocacy in this State, with the Secretary of State on forms supplied by the Secretary of State.*

2. *The form must require:*

(a) The name of the person or group;

(b) The purpose for which the person or group is organized;

(c) The names, addresses and telephone numbers of any officers ~~of employees and volunteers~~ of the person or group; and

(d) If the person or group is affiliated with ~~or is retained by any other organizations~~, person or group for the purpose of advocating the passage or defeat of a constitutional amendment or statewide measure proposed by initiative or referendum, the name, address and telephone number of each such ~~organization~~; and

~~(e) Any other information deemed necessary by the Secretary of State.~~ other person or group.

Sec. 3. *A person or group of persons organized formally or informally who compensates in any way a person who gathers signatures on a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum shall not compensate such a person on the basis of the number of signatures gathered.*

Sec. 4. *Each person who gathers signatures on a petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum must be a resident of this State.*

Sec. 5. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 *or section 2 of this act* has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 *or section 2 or 3 of this act* is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of

State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

➤ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

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

Sec. 7. *A petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum is filed with the Secretary of State, the Secretary of State submitted for signature verification to the county clerk, the county clerk shall make public all signatures and true and correct copies of all the documents of the petition and signatures thereon and shall make such copies and signatures available to the public for a period of not less than 14 days.*

Sec. 8. 1. ~~*The Ballot Review Board is hereby created.*~~

~~*2. Except as otherwise provided in subsection 3, the Ballot Review Board consists of the following ex officio members:*~~

~~*(a) The Secretary of State;*~~

~~*(b) Three county clerks, to be appointed by the Governor; and*~~

~~*(c) The Attorney General.*~~

~~*3. If a member of the Ballot Review Board is a candidate for any elective office in an election, the Governor shall appoint an alternate member to serve in the place of that member until the election is conducted.*~~

~~*4. The members of the Ballot Review Board are not entitled to any additional compensation for their service in that capacity.*~~ *A person or group of persons who is required to register pursuant to section 2 of this act or a person who circulates a petition to collect signatures in support thereof on behalf of such a person or group of persons shall not:*

(a) Intentionally misrepresent the contents of a petition or the effect that such a petition would have if enacted into law or otherwise engage in any fraudulent behavior to induce another person to sign a petition; or

(b) Forge signatures on such a petition.

2. If the Secretary of State receives information indicating that a person or group has violated the provisions of subsection 1, the Secretary of State may, after giving notice to that person and the person or group who is required to register with the Secretary of State pursuant to section 2 of this act, cause the appropriate proceedings to be instituted in the First Judicial District Court.

3. If the First Judicial District Court determines that the person or group violated the provisions of subsection 1, the First Judicial District Court shall disqualify all the signatures that were collected by that person or all the signatures collected on behalf of the group, unless the person or group who is required to register with the Secretary of State pursuant to section 2 of this act proves by clear and convincing evidence that each person who signed the documents of the petition circulated by that person or group intended to sign and support the petition despite the misrepresentations or other fraudulent behavior.

Sec. 9. ~~NRS 295.015 is hereby amended to read as follows:~~

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

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

~~(a) The Fiscal Analysis Division of the Legislative Counsel Bureau to determine if the initiative or referendum may have any anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters. If the Fiscal Analysis Division determines that the initiative or referendum may have an anticipated financial effect on the State or local governments if the initiative or referendum is approved by the voters, the Division must prepare a fiscal note that includes an explanation of any such effect.~~

~~(b) The Ballot Review Board for an analysis of the conformity of the petition with the technical requirements of Article 19 of the Constitution of the State of Nevada and of this chapter. The Ballot Review Board may offer suggestions on such conformity to the person or group of persons circulating the petition.~~

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

Sec. 10. ~~NRS 295.061 is hereby amended to read as follows:~~

~~295.061 1. The description of the effect of an initiative or referendum required pursuant to NRS 295.009 may be challenged by filing a complaint [in the First Judicial District Court] with the Ballot Review Board not later than 30 days, Saturdays, Sundays and holidays excluded, after a copy of the petition is initially placed on file with the Secretary of State pursuant to NRS 295.015. All affidavits and documents in support of the challenge must be filed with the complaint. The [court] Ballot Review Board shall set the matter for hearing not later than [30] 15 days after the complaint is filed, [and shall give priority to such a complaint over all criminal proceedings.]~~

~~2. The decision of the Ballot Review Board pursuant to subsection 1 is a final decision for purposes of judicial review. The decision may be appealed by filing a complaint in the First Judicial District Court not later than 7 days after the date of the decision by the Ballot Review Board pursuant to subsection 1. The court shall set the matter for hearing not later than 15 days after the decision is appealed and shall give priority to such a complaint over all criminal proceedings.~~

~~3. The legal sufficiency of a petition for initiative or referendum may be challenged by filing a complaint [in district court] with the Ballot Review Board not later than 7 days, Saturdays, Sundays and holidays excluded, after the petition is certified as sufficient by the Secretary of State. All affidavits and documents in support of the challenge must be filed with the complaint. The [court] Ballot~~

~~Review Board shall set the matter for hearing not later than [30] 15 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.]~~

~~4. The decision of the Ballot Review Board pursuant to subsection 3 is a final decision for purposes of judicial review. The decision may be appealed by filing a complaint in district court not later than 7 days after the decision by the Ballot Review Board pursuant to subsection 3. The court shall set the matter for hearing not later than 15 days after the decision is appealed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.]~~ (Deleted by amendment.)