

Amendment No. 863

Assembly Amendment to Senate Bill No. 425 First Reprint (BDR 24-905)

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	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

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.

SJA/EGO



Date: 5/22/2007

S.B. No. 425—Makes various changes relating to campaign practices.
(BDR 24-905)



SENATE BILL NO. 425—SENATORS TITUS, WIENER, HORSFORD, CARE, COFFIN, LEE,
SCHNEIDER AND WOODHOUSE

MARCH 19, 2007

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to campaign practices.
(BDR 24-905)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 campaign practices; **requiring a person administering a legal defense fund to report the creation of, contributions received by and expenditures from the fund; prohibiting contributions over a certain amount to a legal defense fund;** providing that a “political purpose” includes a legal defense fund ~~for~~ **for purposes of the provisions prohibiting the solicitation or acceptance of monetary contributions by certain persons during a specified period; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.7 of this bill **requires a person administering a legal defense fund, which is defined in section 1.5 of this bill, to report the creation of the fund and any contributions received by and expenditures made from the fund. Section 1.8 of this bill limits contributions to a legal defense fund by a person to \$10,000 during a specified period.**

Existing law prohibits a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect from soliciting or accepting monetary contributions for any political purpose during a certain period before and after a legislative session. **(NRS 294A.300) Section 2** of this bill provides that a “political purpose” includes a legal defense fund. ~~and defines the term “legal defense fund.”~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:**Section 1.** (Deleted by amendment.)**Sec. 1.1. NRS 293.4687 is hereby amended to read as follows:**

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to section 1.7 of this act.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 1.3. Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 1.7 and 1.8 of this act.

Sec. 1.5. "Legal defense fund" means an account established to defray attorney's fees or other legal costs incurred by a candidate or public officer if such a candidate or public officer becomes subject to any civil, criminal or administrative claim or proceeding arising from a campaign, the electoral process or the performance of his official duties.

Sec. 1.7. 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

Sec. 1.8. 1. A person shall not make a contribution or contributions to the legal defense fund of a candidate or public officer in an amount which exceeds \$10,000 during the applicable period prescribed in NRS 294A.100 pertaining to the office the candidate is seeking or that the public officer holds.

2. A candidate or public officer shall not accept a contribution to his legal defense fund that is made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 1.9. NRS 294A.002 is hereby amended to read as follows:

294A.002 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 294A.004 to 294A.009, inclusive, and section 1.5 of this act have the meanings ascribed to them in those sections.

1 **Sec. 2.** NRS 294A.300 is hereby amended to read as follows:

2 294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant
3 Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to
4 solicit or accept any monetary contribution, or solicit or accept a commitment to
5 make such a contribution for any political purpose during the period beginning:

6 (a) Thirty days before a regular session of the Legislature and ending 30 days
7 after the final adjournment of a regular session of the Legislature;

8 (b) Fifteen days before a special session of the Legislature is set to commence
9 and ending 15 days after the final adjournment of a special session of the
10 Legislature, if the Governor sets a specific date for the commencement of the
11 special session that is more than 15 days after the Governor issues the proclamation
12 calling for the special session; or

13 (c) The day after the Governor issues a proclamation calling for a special
14 session of the Legislature and ending 15 days after the final adjournment of a
15 special session of the Legislature if the Governor sets a specific date for the
16 commencement of the special session that is 15 or fewer days after the Governor
17 issues the proclamation calling for the special session.

18 2. This section does not prohibit the payment of a salary or other
19 compensation or income to a member of the Legislature, the Lieutenant Governor
20 or the Governor during a session of the Legislature if it is made for services
21 provided as a part of his regular employment or is additional income to which he is
22 entitled.

23 **3. As used in this section** ~~the~~

24 ~~“(a) “Legal defense fund” means an account established to defray attorney’s~~
25 ~~fees or other legal costs incurred by a member of the Legislature, the Lieutenant~~
26 ~~Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect if~~
27 ~~such an official becomes subject to any civil, criminal or administrative~~
28 ~~proceedings arising from a campaign, the electoral process or the performance of~~
29 ~~his official duties.~~

30 ~~“(b) “Political”~~ “political purpose” includes, without limitation, the
31 establishment of, or the addition of money to, a legal defense fund.

32 **Sec. 2.3. NRS 294A.350 is hereby amended to read as follows:**

33 294A.350 1. Every candidate for state, district, county, municipal or
34 township office shall file the reports of campaign contributions and expenses
35 required by NRS 294A.120, 294A.128, 294A.200 and 294A.360 ~~and~~ and reports of
36 contributions received by and expenditures made from a legal defense fund
37 required by section 1.7 of this act, even though he:

38 (a) Withdraws his candidacy;

39 (b) Receives no campaign contributions;

40 (c) Has no campaign expenses;

41 (d) Is removed from the ballot by court order; or

42 (e) Is the subject of a petition to recall and the special election is not held.

43 2. A candidate who withdraws his candidacy pursuant to NRS 293.202 may
44 file simultaneously all the reports of campaign contributions and expenses required
45 by NRS 294A.120, 294A.128, 294A.200 and 294A.360 ~~and~~ and the report of
46 contributions received by and expenditures made from a legal defense fund
47 required by section 1.7 of this act, so long as each report is filed on or before the
48 last day for filing the respective report pursuant to NRS 294A.120, 294A.200 or
49 294A.360.

50 **Sec. 2.5. NRS 294A.373 is hereby amended to read as follows:**

51 294A.373 1. The Secretary of State shall design a single form to be used for
52 all reports of campaign contributions and expenses or expenditures that are required
53 to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150,

294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360 and 294A.362. and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to section 1.7 of this act.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, committee, political party and group that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party or group that is required to use the form.

Sec. 2.7. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy;

3. The registration of a committee for political action pursuant to NRS 294A.230 or a committee for the recall of a public officer pursuant to NRS 294A.250; ~~for~~

4. The reporting of the creation of a legal defense fund pursuant to section 1.7 of this act; or

5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360. ~~and~~ and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to section 1.7 of this act.

shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of sections 1.7 and 1.8 of this act relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in section 1.8 of this act and NRS 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 3. (Deleted by amendment.)

Sec. 3.3. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270 and 294A.280. ~~and~~ and section 1.7 of this act, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of \$100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of \$100.

4. The expenditures exceeding \$100 made by a:

(a) Person on behalf of a candidate other than himself.
(b) Person or group of persons on behalf of or against a question or group of questions on the ballot.

(c) Group of persons advocating the election or defeat of a candidate.

(d) Committee for the recall of a public officer.

5. The contributions in excess of \$100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot.

(c) A committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates.

6. The total contributions received by and expenditures made from a legal defense fund.

Sec. 3.6. 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 1.7 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 1.7 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. 3.8. NRS 281.501 is hereby amended to read as follows:

281.501 1. Except as otherwise provided in subsection 2, 3 or 4, a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His pecuniary interest; or

(c) His commitment in a private capacity to the interests of others.

➤ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

3. In a county whose population is 400,000 or more, a member of a county or city planning commission shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His direct pecuniary interest; or

(c) His commitment to a member of his household or a person who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity.

➤ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his direct pecuniary interest or his commitment described in paragraph (c) where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the direct pecuniary interest or commitment.

4. A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest,

➤ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection 6, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the

disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 or any contributions to a legal defense fund that the public officer reported pursuant to section 1.7 of this act in a timely manner.

5. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

6. After a member of the Legislature makes a disclosure pursuant to subsection 4, he may file with the Director of the Legislative Counsel Bureau a written statement of his disclosure. The written statement must designate the matter to which the disclosure applies. After a Legislator files a written statement pursuant to this subsection, he is not required to disclose orally his interest when the matter is further considered by the Legislature or any committee thereof. A written statement of disclosure is a public record and must be made available for inspection by the public during the regular office hours of the Legislative Counsel Bureau.

7. The provisions of this section do not, under any circumstances:

(a) Prohibit a member of the Legislative Branch from requesting or introducing a legislative measure; or

(b) Require a member of the Legislative Branch to take any particular action before or while requesting or introducing a legislative measure.

8. As used in this section, "commitment in a private capacity to the interests of others" means a commitment to a person:

(a) Who is a member of his household;

(b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;

(c) Who employs him or a member of his household;

(d) With whom he has a substantial and continuing business relationship; or

(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

Sec. 4. This act becomes effective upon passage and approval.