

## Amendment No. 864

Assembly Amendment to Senate Bill No. 548 First Reprint (BDR 23-1434)

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

**Amends:** Summary: No Title: No 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.

HAC/KMG



Date: 5/21/2007

S.B. No. 548—Revises various provisions relating to public offices.  
(BDR 23-1434)



SENATE BILL NO. 548—COMMITTEE ON  
LEGISLATIVE OPERATIONS AND ELECTIONS

MARCH 26, 2007

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises various provisions relating to public offices.  
(BDR 23-1434)

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 public office; revising the provisions governing filing of statements of financial disclosure by public officers and candidates for public office; requiring certain statements advocating the election or defeat of a candidate for state or local office and published by persons receiving compensation from the candidates, opponents of the candidates or certain political groups to contain disclosures of certain information regarding that compensation; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires certain appointed and elected public officers and candidates for public office to file financial disclosure statements. (NRS 281.559, 281.561) **Sections 1 and 2** of this bill clarify that each disclosure statement is intended to disclose the required information for the full calendar year immediately preceding the deadline for filing the statement and, for candidates, to also disclose the required information for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

Existing law provides for a number of required and prohibited acts relating to election campaigns. (NRS 294A.290-294A.343) **Section 3** of this bill requires certain statements advocating the election or defeat of a candidate for state or local office and published by persons receiving compensation from the candidates, opponents of the candidates or certain political groups to include a disclosure of certain information regarding that compensation.

**Existing law requires a person who publishes any material or information relating to an election, candidate or ballot question to disclose on the publication itself the name and address of each person responsible for paying for the publication. (NRS 294A.320) The United States Court of Appeals for the Ninth Circuit held that although the State had compelling interests in providing useful information to the electorate, in preventing election fraud and in ensuring compliance with its campaign finance laws, NRS 294A.320 was unconstitutional because it prohibited far more anonymous political speech than was necessary to achieve the State's legitimate interests and because its provisions were overbroad and could be further limited in order to withstand strict scrutiny. (ACLU v. Heller, 378 F.3d 979 (9th Cir. Nev. 2004))**

**Section 5 of this bill repeals NRS 294A.320.**

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

**Section 1.** NRS 281.559 is hereby amended to read as follows:

281.559 1. Except as otherwise provided in subsection 2, if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office, he shall file with the Commission a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

*↪ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.*

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

4. The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:

(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;

(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;

(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and

(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.

5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.

6. A statement of financial disclosure shall be deemed to be filed with the Commission:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

**Sec. 2.** NRS 281.561 is hereby amended to read as follows:

281.561 1. ~~Each~~ *Except as otherwise provided in subsection 2, each* candidate for public office who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection ~~2~~ 3, each public officer who was elected to the office for which he is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. ~~The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement to file a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if he is elected to the office.~~

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. ~~The statement must disclose the required information for the full calendar year immediately preceding the date of filing.~~

2. ~~Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which he is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281.559, he need not file the statement required by subsection 1 for the full calendar year for which he previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.~~

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

~~3~~ 4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281.571.

~~4~~ 5. A statement of financial disclosure shall be deemed to be filed with the Secretary of State:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Secretary of State if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

~~5~~ 6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281.471.

~~6~~ 7. The Secretary of State shall prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.

1       **Sec. 3.** Chapter 294A of NRS is hereby amended by adding thereto a new  
2 section to read as follows:

3       **1. A statement which:**

4       (a) *Is published within 60 days before a general election, general city*  
5 *election or special election or 30 days before a primary election or primary city*  
6 *election;*

7       (b) *Expressly advocates the election or defeat of a clearly identified candidate*  
8 *for a state or local office; and*

9       (c) *Is published by a person who receives compensation from the candidate,*  
10 *an opponent of the candidate, or a person, party or committee required to report*  
11 *expenditures pursuant to NRS 294A.210,*

12       *↪ must contain a disclosure of the fact that the person receives compensation*  
13 *pursuant to paragraph (c) and the name of the person, party or committee*  
14 *providing that compensation.*

15       **2. A statement which:**

16       (a) *Is published by a candidate within 60 days before a general election,*  
17 *general city election or special election or 30 days before a primary election or*  
18 *primary city election; and*

19       (b) *Contains the name of the candidate,*

20       *↪ shall be deemed to comply with the provisions of this section.*

21       **3. As used in this section, "publish" means the act of:**

22       (a) *Printing, posting, broadcasting, mailing or otherwise disseminating; or*

23       (b) *Causing to be printed, posted, broadcasted, mailed or otherwise*  
24 *disseminated.*

25       **Sec. 4. NRS 294A.420 is hereby amended to read as follows:**

26       294A.420 1. If the Secretary of State receives information that a person or  
27 entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140,  
28 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or  
29 294A.360 has not filed a report or form for registration pursuant to the applicable  
30 provisions of those sections, the Secretary of State may, after giving notice to that  
31 person or entity, cause the appropriate proceedings to be instituted in the First  
32 Judicial District Court.

33       2. Except as otherwise provided in this section, a person or entity that violates  
34 an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130,  
35 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230,  
36 294A.270, 294A.280, 294A.300, 294A.310, ~~294A.320~~ or 294A.360 is subject to  
37 a civil penalty of not more than \$5,000 for each violation and payment of court  
38 costs and attorney's fees. The civil penalty must be recovered in a civil action  
39 brought in the name of the State of Nevada by the Secretary of State in the First  
40 Judicial District Court and deposited by the Secretary of State for credit to the State  
41 General Fund in the bank designated by the State Treasurer.

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

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

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

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

49       ↪ A civil penalty imposed pursuant to this subsection against a public officer who  
50 by law is not entitled to receive compensation for his office or a candidate for such  
51 an office must not exceed a total of \$100 if the public officer or candidate received  
52 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. 5. NRS 294A.320 is hereby repealed.**

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### TEXT OF REPEALED SECTION

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**NRS 294A.320 Published material concerning campaign must identify person paying for publication; exceptions.**

1. Except as otherwise provided in subsection 2, it is unlawful for any person to publish any material or information relating to an election, candidate or any question on a ballot unless that material or information contains:

(a) The name and mailing or street address of each person who has paid for or who is responsible for paying for the publication; and

(b) A statement that each such person has paid for or is responsible for paying for the publication.

2. The provisions of subsection 1 do not apply:

(a) To any candidate or to the political party of that candidate which pays for or is responsible for paying for any billboard, sign or other form of advertisement which refers only to that candidate and in which the candidate's name is prominently displayed.

(b) If the material is expressly approved and paid for by the candidate and the cost of preparation and publishing has been reported by the candidate as a campaign contribution pursuant to NRS 294A.120.

(c) To a natural person who acts independently and not in cooperation with or pursuant to any direction from a business or social organization, nongovernmental legal entity or governmental entity.

3. Any identification that complies with the requirements of the Communications Act of 1934 and the regulations adopted pursuant to the act shall be deemed to comply with the requirements of this section.

4. As used in this section:

(a) "Material" means any printed or written matter or any photograph.

(b) "Publish" means the act of:

(1) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(2) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated,

↳ any material or information to the public.