

Amendment No. 466

Senate Amendment to Senate Bill No. 549

(BDR 24-1382)

Proposed by: Senate Committee on Legislative Operations and Elections**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.

KMG



Date: 4/22/2007

S.B. No. 549—Makes various changes to provisions governing certain petitions.
(BDR 24-1382)



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 ~~for referendum~~ **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 ~~assembly district~~ **county** 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~~ **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** ~~provide a~~ **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. ~~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.~~

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

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. ~~[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.] (Deleted by amendment.)~~

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, 298.100, 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.] (Deleted by amendment.)~~

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

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

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

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

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

~~[5.] 6. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.025 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.~~

~~[6.] 7. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.025 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.~~

~~[7.] 8. The Secretary of State [may] *shall* by regulation establish further procedures for carrying out the provisions of this section.~~ (Deleted by amendment.)

Sec. 5. ~~[NRS 293.1278 is hereby amended to read as follows:~~

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

~~2. If those certificates establish that the number of valid signatures is equal to or more than the sum of 100 percent of the number of registered voters needed to make 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 [.] and, in the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each assembly district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of those certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.~~

~~3. If the certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient but the petition fails to qualify pursuant to subsection 2, each county clerk who received a request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each name as requested, amend the certificate and transmit the amended certificate to the Secretary of State. If the amended certificates establish that the petitioners have 100 percent or more of the number of registered voters needed to make the petition sufficient [.] and, in the case of a petition proposing a statute, an amendment to statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each assembly district, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of the amended certificates, and the Secretary of State shall immediately so notify the petitioners and the county clerks.] (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. ~~⚠~~ Except as otherwise provided in this ~~section,~~ 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 ~~proposing~~ 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 ~~assembly district~~ 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 4 percent or more of the population of the assembly district~~ 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 ~~assembly district~~ county pursuant to NRS 295.055 ~~or 306.015~~, the Secretary of State may order the county clerk ~~or county clerks if the assembly district comprises more than one county~~ to examine every signature for verification. ~~If an assembly district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State to complete the certificate.~~*

3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt of such an order, the county clerk ~~for clerks~~ shall determine from the records of registration what number of registered voters have signed the petition ~~and, if appropriate, tally those signatures by assembly district.~~ 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 ~~and in determining in which assembly district the voters reside,~~ 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 ~~for county clerks~~ 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. ~~In the case of a petition to propose a statute, an amendment to statute or an amendment to the Constitution, if an assembly district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State to complete the amended certificate.~~

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.

~~1. [8. The Secretary of State shall adopt regulations to carry out the provisions of this section.]~~

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. [A] Except as otherwise provided in subsection 2, a petition for initiative [or referendum] 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 [assembly district] county in the State that is at least equal to [4] :

(a) Four percent [or more] of the total population of [each assembly district in] the State [as determined by the last preceding 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)], 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. ~~[When signing a petition, a registered voter must indicate the assembly district in which he resides. The registered voter may consult the list of the registered voters in this State that each circulator of the petition is required to carry with him and may rely on the information contained in that list when he indicates the appropriate assembly district, unless he believes that the information is inaccurate.] At least one registered voter who resides in each county must sign the petition.~~

3. ~~[A circulator of a petition shall not write in the assembly district for any registered voter.] 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. ~~[Each circulator of a petition shall carry with him a copy of the list of registered voters that also indicates in which assembly district each registered voter resides that was provided to the petitioners by the Secretary of State pursuant to NRS 295.015.] (Deleted by amendment.)~~

Sec. 10. ~~[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] +~~

~~(a) Provide to the petitioners +~~

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

~~(2) A map or maps indicating the boundaries of each assembly district, and~~

~~(b) Consult with 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.~~

~~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.~~

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

~~5. As used in this section, the term "assembly district" means a district created pursuant to the provisions of chapter 218 of NRS for the election of a member of the Assembly.] (Deleted by amendment.)~~

Sec. 11. ~~{NRS 295.055 is hereby amended to read as follows:~~

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

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

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

~~2. Each document of the petition must [bear]:~~

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

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

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

~~4. As used in this section, the term "assembly district" means a district created pursuant to the provisions of chapter 218 of NRS for the election of a member of the Assembly.] (Deleted by amendment.)~~