

Amendment No. 182

Assembly Amendment to Assembly Bill No. 79	(BDR 24-486)
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 dashed underlining* is newly added transitory language.

WBD/RBL



Date: 4/5/2009

A.B. No. 79—Revises provisions concerning city elections. (BDR 24-486)



ASSEMBLY BILL NO. 79—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

(ON BEHALF OF THE NEVADA LEAGUE OF
CITIES AND MUNICIPALITIES)

PREFILED DECEMBER 15, 2008

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

SUMMARY—Revises provisions concerning city elections. (BDR 24-486)

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 city elections; authorizing the governing body of a city to conduct a city election in which all ballots must be cast by mail under certain circumstances; providing that a candidate who receives a majority of votes cast in a city primary election *in certain cities* must be declared elected; revising provisions concerning requests for an absent ballot; requiring that the voting results of a city election be posted on the Internet under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the governing body of a city to conduct a city election in which all ballots must be cast by mail if: (1) the election is a special election; (2) the election involves only offices and ballot questions that may be voted on by the voters of only one ward of the city; *or* (3) the election involves only a single office or ballot question ~~or (4) the governing body determines that doing so is in the best interest of the city.~~ The provisions of existing law governing the conduct of city elections apply to such an election except for provisions concerning voting in person at polling places, voting by absent ballot and early voting in person. For the purpose of conducting such an election, each voting precinct in the city is treated as if it were a mailing precinct under existing law.

Under existing law, if a candidate for office in a city primary election held in a city whose population is 5,000 or more receives a majority of the votes cast for the office, only his name must be placed on the ballot for the city general election, and he must run unopposed in that election. (NRS 293C.175) **Section 3** of this bill provides instead that such a candidate must be declared elected to the office based on the majority vote in the primary election and that his name must not be placed on the ballot for the city general election. ~~[Section 3 also extends the scope of this provision to apply to city elections held in all cities in Nevada.]~~

Section 4 of this bill eliminates a provision which enables a registered voter who is at least 65 years of age or who has a physical disability or condition that substantially impairs his ability to go to the polling place to request an absent ballot for all elections held during the year he requests an absent ballot, thus making it so that, with certain limited exceptions,

any registered voter providing sufficient written notice may vote an absent ballot. (NRS 293C.310)

Existing law requires a counting board and a city clerk to post a signed copy of the voting results in a city election on the outside of the facility where the votes were counted, the courthouse or the city hall. (NRS 293C.380) **Section 5** of this bill requires ~~[instead]~~ that the results also be posted on an Internet website ~~[maintained by the city or the city clerk, if any, and requires the physical posting of the results only if neither]~~ not later than the start of business on the day immediately following the election, if the city ~~[not]~~ or the city clerk maintains such a website. **Section 5** also eliminates the requirement that the copy of the voting results be signed before it may be posted.

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

Section 1. Chapter 293C of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may conduct a city election in which all ballots must be cast by mail if:

(a) The election is a special election; or
(b) The election is a primary city election or general city election in which the ballot includes only:

(1) Offices and ballot questions that may be voted on by the registered voters of only one ward; or

(2) One office or ballot question. ~~[or]~~
~~*(c) The governing body determines that conducting a city election in which all ballots must be cast by mail is in the best interest of the city.*~~

2. The provisions of NRS 293C.265 to 293C.302, inclusive, 293C.305 to 293C.340, inclusive, and 293C.355 to 293C.361, inclusive, do not apply to an election conducted pursuant to this section.

3. For the purposes of an election conducted pursuant to this section, each precinct in the city shall be deemed to have been designated a mailing precinct pursuant to NRS 293C.342.

Sec. 2. NRS 293C.110 is hereby amended to read as follows:

293C.110 1. Except as otherwise provided in subsection 2, conduct of any city election is under the control of the governing body of the city, and it shall, by ordinance, provide for the holding of the election, appoint the necessary election officers and election boards ~~[and]~~ and do all other things required to carry the election into effect.

2. ~~[The]~~ *Except as otherwise provided in section 1 of this act, the* governing body of the city shall provide for:

(a) Absent ballots to be voted in a city election pursuant to NRS 293C.305 to 293C.325, inclusive, and 293C.330 to 293C.340, inclusive; and

(b) The conduct of:
(1) Early voting by personal appearance in a city election pursuant to NRS 293C.355 to 293C.361, inclusive;

(2) Voting by absent ballot in person in a city election pursuant to NRS 293C.327; or

(3) Both early voting by personal appearance as described in subparagraph (1) and voting by absent ballot in person as described in subparagraph (2).

Sec. 3. NRS 293C.175 is hereby amended to read as follows:

293C.175 1. Except as otherwise provided in NRS 293C.115, a primary city election must be held in each city of population category one, and in each city of

1 population category two that has so provided by ordinance, on the first Tuesday
2 after the first Monday in April of every year in which a general city election is to be
3 held, at which time there must be nominated candidates for offices to be voted for
4 at the next general city election.

5 2. Except as otherwise provided in NRS 293C.115, a candidate for any office
6 to be voted for at the primary city election must file a declaration of candidacy with
7 the city clerk not less than 60 days ~~not~~ *or* more than 70 days before the date of the
8 primary city election. The city clerk shall charge and collect from the candidate and
9 the candidate must pay to the city clerk, at the time of filing the declaration of
10 candidacy, a filing fee in an amount fixed by the governing body of the city by
11 ordinance or resolution. The filing fees collected by the city clerk must be deposited
12 to the credit of the general fund of the city.

13 3. All candidates, except as otherwise provided in NRS 266.220, must be
14 voted upon by the electors of the city at large.

15 4. If, in a primary city election held in a city of population category one or
16 two, one candidate receives more than a majority of votes cast in that election for
17 the office for which he is a candidate, *he must be declared elected to the office and*
18 *his name ~~alone~~ must not be placed on the ballot for the general city election. If, in*
19 *the primary city election, no candidate receives a majority of votes cast in that*
20 *election for the office for which he is a candidate, the names of the two candidates*
21 *receiving the highest number of votes must be placed on the ballot for the general*
22 *city election.*

23 **Sec. 4.** NRS 293C.310 is hereby amended to read as follows:

24 293C.310 1. Except as otherwise provided in NRS 293.502 and 293C.265, a
25 registered voter who provides sufficient written notice to the city clerk may vote an
26 absent ballot as provided in this chapter.

27 2. ~~[A registered voter who:~~

28 ~~— (a) Is at least 65 years of age; or~~

29 ~~— (b) Has a physical disability or condition that substantially impairs his ability~~
30 ~~to go to the polling place;~~

31 ~~— may request an absent ballot for all elections held during the year he requests an~~
32 ~~absent ballot.~~

33 ~~— 3.]~~ As used in this section, “sufficient written notice” means a:

34 (a) Written request for an absent ballot that is signed by the registered voter
35 and returned to the city clerk in person or by mail or facsimile machine;

36 (b) Form prescribed by the Secretary of State that is completed and signed by
37 the registered voter and returned to the city clerk in person or by mail or facsimile
38 machine; or

39 (c) Form provided by the Federal Government.

40 ~~[4.]~~ 3. A city clerk shall consider a request from a voter who has given
41 sufficient written notice on a form provided by the Federal Government as:

42 (a) A request for the primary city election and the general city election unless
43 otherwise specified in the request; and

44 (b) A request for an absent ballot for the two primary and general elections
45 immediately following the date on which the city clerk received the request.

46 ~~[5.]~~ 4. It is unlawful for a person fraudulently to request an absent ballot in
47 the name of another person or to induce or coerce another person fraudulently to
48 request an absent ballot in the name of another person. A person who violates any
49 provision of this subsection is guilty of a category E felony and shall be punished as
50 provided in NRS 193.130.

1 **Sec. 5.** NRS 293C.380 is hereby amended to read as follows:

2 293C.380 1. Except as otherwise provided in subsection 2, each counting
3 board, before it adjourns, shall post a copy of the voting results in a conspicuous
4 place on the outside of the place where the votes were counted.

5 2. If votes are cast on ballots that are mechanically or electronically tabulated
6 in accordance with the provisions of this chapter, chapter 293 or 293B of NRS, the
7 city clerk shall, as soon as possible, post copies of the tabulated voting results :

8 (a) On an Internet website maintained by the city or the city clerk, if any,
9 including, without limitation, a website maintained by the city clerk pursuant to
10 NRS 293C.715; ~~for~~ and

11 (b) ~~If neither the city nor the city clerk maintains an Internet website, in~~ In
12 a conspicuous place on the outside of the counting facility, courthouse or city hall.
13 Copies of the voting results posted pursuant to this paragraph must be posted not
14 later than the start of business on the day immediately following the day of the
15 election.

16 3. Each copy of the voting results posted in accordance with subsections 1
17 and 2 must set forth the accumulative total of all the votes cast within the city
18 conducting the election. ~~[and must be signed by the members of the counting board~~
19 ~~or the computer program and processing accuracy board.]~~

20 **Sec. 6.** NRS 293C.387 is hereby amended to read as follows:

21 293C.387 1. The election returns from a special election, primary city
22 election or general city election must be filed with the city clerk, who shall
23 immediately place the returns in a safe or vault ~~[]~~ designated by the city clerk. No
24 person may handle, inspect or in any manner interfere with the returns until they are
25 canvassed by the mayor and the governing body of the city.

26 2. After the governing body of a city receives the returns from all the
27 precincts and districts in the city, it shall meet with the mayor to canvass the
28 returns. The canvass must be completed on or before the sixth working day
29 following the election.

30 3. In completing the canvass of the returns, the governing body of the city and
31 the mayor shall:

32 (a) Note separately any clerical errors discovered; and

33 (b) Take account of the changes resulting from the discovery, so that the result
34 declared represents the true vote cast.

35 4. After the canvass is completed, the governing body of the city and mayor
36 shall declare the result of the canvass.

37 5. The city clerk shall enter upon the records of the governing body of the city
38 an abstract of the result. The abstract must be prepared in the manner prescribed by
39 regulations adopted by the Secretary of State and must contain the number of votes
40 cast for each candidate.

41 6. After the abstract is entered, the:

42 (a) City clerk shall seal the election returns, maintain them in a vault for at
43 least 22 months and give no person access to them during that period, unless access
44 is ordered by a court of competent jurisdiction or by the governing body of the city.

45 (b) Governing body of the city shall, by an order made and entered in the
46 minutes of its proceedings, cause the city clerk to:

47 (1) Certify the abstract;

48 (2) Make a copy of the certified abstract;

49 (3) Make a mechanized report of the abstract in compliance with
50 regulations adopted by the Secretary of State;

51 (4) Transmit a copy of the certified abstract and the mechanized report of
52 the abstract to the Secretary of State within 7 working days after the election; and

(5) Transmit on paper or by electronic means to each public library in the city, or post on a website maintained by the city or the city clerk on the Internet or its successor, if any, a copy of the certified abstract within 30 days after the election.

7. After the abstract of the results from a:

(a) Primary city election has been certified, the city clerk shall certify the name of each person nominated and the name of the office for which he is nominated.

(b) General city election has been certified, the city clerk shall:

(1) Issue under his hand and official seal to each person elected a certificate of election; and

(2) Deliver the certificate to the persons elected upon their application at the office of the city clerk.

8. The officers elected to the governing body of the city qualify and enter upon the discharge of their respective duties on the first regular meeting of that body next succeeding that in which the canvass of returns was made pursuant to subsection 2.

Sec. 7. NRS 293C.390 is hereby amended to read as follows:

293C.390 1. The voted ballots, rejected ballots, spoiled ballots, challenge lists, records printed on paper of voted ballots collected pursuant to NRS 293B.400, and stubs of the ballots used, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk. The records of voted ballots that are maintained in electronic form must, after canvass of the votes by the governing body of the city, be sealed and deposited in the vaults of the city clerk. The tally lists collected pursuant to NRS 293B.400 must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk without being sealed. All materials described by this subsection must be preserved for at least 22 months, and all such sealed materials must be destroyed immediately after that period. A notice of the destruction must be published by the city clerk in at least one newspaper of general circulation in the city ~~or~~ or , if no newspaper is of general circulation in that city, in a newspaper of general circulation in the nearest city, not less than 2 weeks before the destruction of the materials.

2. Unused ballots, enclosed and sealed, must, after canvass of the votes by the governing body of the city, be deposited in the vaults of the city clerk and preserved for at least the period during which the election may be contested and adjudicated, after which the unused ballots may be destroyed.

3. The rosters containing the signatures of those persons who voted in the election and the tally lists deposited with the governing body of the city are subject to the inspection of any elector who may wish to examine them at any time after their deposit with the city clerk.

4. A contestant of an election may inspect all of the material relating to that election which is preserved pursuant to subsection 1 or 2, except the voted ballots.

5. The voted ballots deposited with the city clerk are not subject to the inspection of any person, except in cases of a contested election, and only by the judge, body or board before whom the election is being contested, or by the parties to the contest, jointly, pursuant to an order of the judge, body or board.

6. As used in this section, "vaults of the city clerk" means any place of secure storage designated by the city clerk.

Sec. 8. This act becomes effective upon passage and approval.