

Amendment No. 1002

Assembly Amendment to Senate Bill No. 212 First Reprint (BDR 24-649)

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 dashed underlining is newly added transitory language.

HAC



Date: 6/1/2009

S.B. No. 212—Revises provisions governing initiative petitions. (BDR 24-649)



SENATE BILL NO. 212—SENATOR RHODS

MARCH 13, 2009

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing initiative petitions. (BDR 24-649)

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 initiative petitions; providing a procedure for a petition proposing a statute, an amendment to a 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 proposing a statute, an amendment to a statute or an amendment to the Constitution be signed by a number of registered voters that is equal to at least 10 percent of the voters who voted at the last preceding general election. (Nev. Const. Art. 19, § 2) Existing law also requires an initiative petition be signed by a number of registered voters from each county in the State that is at least equal to 10 percent of the voters who voted in the entire State at the last preceding general election multiplied by the population percentage for that county. (NRS 295.012) The United States District Court for the District of Nevada declared that the current existing law violates the Equal Protection Clause of the United States Constitution because it results in the signatures of voters from counties with lower population carrying more weight than the signatures of voters from counties with higher population. (*Marijuana Policy Project v. Miller*, 578 F.Supp. 2d 1290 (D. Nev. 2008)) This bill repeals and replaces the current existing law.

Section 3.2 of this bill requires the Legislature to create petition districts from which signatures for a petition for initiative must be gathered. **Section 14** of this bill defines "petition district" to mean congressional district until July 1, 2011, at which time the Legislature must have established petition districts for the period after that date. **Section 3.4** of this bill requires the Director of the Legislative Counsel Bureau to retain a copy of maps of the petitions district and make them available to any interested person for a reasonable fee not to exceed the actual cost of producing the copy. **Section 12** of this bill requires a petition for initiative to be signed by a number of registered voters in each petition district in the State that equals at least 10 percent of the voters who voted in that petition district in the last preceding general election.

Section 5 of this bill requires the Secretary of State to determine, as soon as practicable after each general election, the number of signatures required to be gathered from each petition district. **Sections 6-9** of this bill provide procedures for the verification of signatures on a petition proposing a statute, an amendment to a statute or an amendment to the Constitution. **Sections 7 and 9** require the Secretary of State to adopt regulations concerning these procedures. **Section 10** of this bill requires the Secretary of State to provide on his website a current list of the registered voters in this State that indicates the petition district in which each registered voter resides. **Section 13** of this bill authorizes the person signing a petition to indicate his petition district on the petition and, if not so indicated, ~~follows~~ **requires** the circulator of the petition to indicate the petition district of the person if known.

Section 13 further allows a voter to consult the website of the Secretary of State to determine within which petition district he resides and to rely on that information.

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 the provisions set forth as ~~sections 2 and 3~~ *section 2* of this act.

Sec. 2. *“Petition district” means a district established by the Legislature pursuant to section 3.2 of this act.*

Sec. 3. (Deleted by amendment.)

Sec. 3.2. *1. The Legislature shall establish petition districts from which signatures for a petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution of this State must be gathered. The petition districts must be established in a manner that is fair to all residents of the State, represent approximately equal populations and ensure that each signature is afforded the same weight.*

2. Petition districts must be:

(a) Based on the population databases compiled by the Bureau of the Census of the United States Department of Commerce as validated and incorporated into the geographic information system by the Legislative Counsel Bureau for use by the Nevada Legislature.

(b) Designated in the maps filed with the Office of the Secretary of State pursuant to section 3.4 of this act.

Sec. 3.4. *The Director of the Legislative Counsel Bureau shall:*

1. Retain in an office of the Legislative Counsel Bureau, copies of maps of the petition districts established pursuant to section 3.2 of this act.

2. Make available copies of the maps to any interested person for a reasonable fee, not to exceed the actual costs of producing copies of the maps.

3. File a copy of the maps with the Secretary of State.

Sec. 4. 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 2 of this act*, have the meanings ascribed to them in those sections.

Sec. 5. NRS 293.127563 is hereby amended to read as follows:

293.127563 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~~ *petition district* within the State for a petition for initiative that proposes a statute, an amendment to *a* statute or an amendment to the Constitution of this State.

2. To determine the number of signatures required to be gathered from ~~a county~~ *a petition district*, the Secretary of State shall ~~multiply~~ *calculate* the amount that equals 10 percent of the voters who voted in ~~the entire State~~ *that petition district* at the last preceding general election ~~. by the population percentage for that county.~~

~~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(e), by the total population of the State.]~~

Sec. 6. 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, 298.109, 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 a statute or an amendment to the Constitution, shall tally the number of signatures for each petition 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.

Sec. 7. 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~~ *and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, shall tally the number of signatures for each petition district contained or fully contained 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 a statute or an amendment to the Constitution, when the county clerk is determining the number of registered voters who signed the documents from each petition district contained fully or partially within his county, he must use the statewide voter registration list available pursuant to NRS 293.675.*

5. Except as otherwise provided in subsection ~~6-7~~ 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 petition district, if required*, and transmit the documents with the certificate to the Secretary of State. *If a petition district comprises more than one county and the petition proposes a statute, an amendment to a statute or an amendment to the Constitution, the appropriate county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section 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~~ 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, 306.035 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~~ 7. 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 transmit to the Secretary of State the documents containing the signatures of the registered voters.

~~7-8~~ 8. The Secretary of State ~~may~~ shall by regulation establish further procedures for carrying out the provisions of this section.

Sec. 8. 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~~ *and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each petition 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~~ *and, in the case of a petition proposing a statute, an amendment to a statute or an amendment to the Constitution, that the petition has the minimum number of signatures required for each petition 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.

1 **Sec. 9.** NRS 293.1279 is hereby amended to read as follows:

2 293.1279 1. If the statistical sampling shows that the number of valid
3 signatures filed is 90 percent or more, but less than the sum of 100 percent of the
4 number of signatures of registered voters needed to declare the petition sufficient
5 plus the total number of requests to remove a name received by the county clerks
6 pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county
7 clerks to examine the signatures for verification. The county clerks shall examine
8 the signatures for verification until they determine that 100 percent of the number
9 of signatures of registered voters needed to declare the petition sufficient are valid.
10 If the county clerks received a request to remove a name pursuant to NRS 295.055
11 or 306.015, the county clerks may not determine that 100 percent of the number of
12 signatures of registered voters needed to declare the petition sufficient are valid
13 until they have removed each name as requested pursuant to NRS 295.055 or
14 306.015.

15 2. Except as otherwise provided in this subsection, if the statistical sampling
16 shows that the number of valid signatures filed in any county is 90 percent or more
17 but less than the sum of 100 percent of the number of signatures of registered voters
18 needed to constitute 10 percent of the number of voters who voted at the last
19 preceding general election in that county plus the total number of requests to
20 remove a name received by the county clerk in that county pursuant to NRS
21 295.055 or 306.015, the Secretary of State may order the county clerk in that
22 county to examine every signature for verification. If the county clerk received a
23 request to remove a name pursuant to NRS 295.055 or 306.015, the county clerk
24 may not determine that 100 percent or more of the number of signatures of
25 registered voters needed to constitute 10 percent of the number of voters who voted
26 at the last preceding general election in that county are valid until he has removed
27 each name as requested pursuant to NRS 295.055 or 306.015. In the case of a
28 petition for initiative that proposes a statute, an amendment to *a* statute or an
29 amendment to the Constitution of this State, if the statistical sampling shows that
30 the number of valid signatures in any ~~county~~ *petition district* is 90 percent or
31 more but less than the sum of 100 percent of the number of signatures of registered
32 voters required for that ~~county~~ *petition district* pursuant to NRS 295.012 plus the
33 total number of requests to remove a name received by the county clerk ~~in that~~ *or*
34 *county clerks, if the petition district comprises more than one* county, pursuant to
35 NRS 295.055, the Secretary of State may order the county clerk to examine every
36 signature for verification.

37 3. Within 12 days, excluding Saturdays, Sundays and holidays, after receipt
38 of such an order, the county clerk *or county clerks* shall determine from the records
39 of registration what number of registered voters have signed the petition ~~and~~ *and, if*
40 *appropriate, tally those signatures by petition district*. If necessary, the board of
41 county commissioners shall allow the county clerk additional assistants for
42 examining the signatures and provide for their compensation. In determining from
43 the records of registration what number of registered voters have signed the petition
44 ~~and~~ *and in determining in which petition district the voters reside*, the county clerk
45 must use the statewide voter registration list. The county clerk may rely on the
46 appearance of the signature and the address and date included with each signature
47 in determining the number of registered voters that signed the petition.

48 4. Except as otherwise provided in subsection 5, upon completing the
49 examination, the county clerk *or county clerks* shall immediately attach to the
50 documents of the petition an amended certificate, properly dated, showing the result
51 of the examination and shall immediately forward the documents with the amended
52 certificate to the Secretary of State. A copy of the amended certificate must be filed
53 in the county clerk's office. *In the case of a petition to propose a statute, an*

amendment to a statute or an amendment to the Constitution, if a petition district comprises more than one county, the county clerks shall comply with the regulations adopted by the Secretary of State pursuant to this section 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.

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

Sec. 10. 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) *A current list of the registered voters in this State that also indicates the petition district in which each registered voter resides;*

(d) A map or maps indicating the boundaries of each petition district; and

(e) 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.283, 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 NRS 294A.286.

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. 11. Chapter 295 of NRS is hereby amended by adding thereto a new section to read as follows:

"Petition district" has the meaning ascribed to it in section 2 of this act.

Sec. 12. NRS 295.012 is hereby amended to read as follows:

295.012 ~~[-]~~ A petition for initiative that proposes a statute, an amendment to a statute or an amendment to the Constitution must be proposed by a number of registered voters from each ~~county~~ *petition district* in the State that is at least equal to 10 percent of the voters who voted in ~~the entire State~~ *that petition district*

at the last preceding general election . ~~{multiplied by the population percentage for that county.}~~

~~2. 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. 13. 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. The regulations must ensure that the format includes, without limitation, that:

(1) In addition to signing the petition, a person who signs a petition ~~{shall print}~~:

(I) *Shall print* his given name followed by his surname on the petition before his signature ~~{}~~; and

(II) *May indicate the petition district in which he resides. If the person does not indicate the petition district on the petition, the circulator ~~{may}~~ shall indicate the petition district of the person if known.*

(2) Each signature must be dated.

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

2. *The registered voter may consult the list of the registered voters in this State posted on the website maintained by the Secretary of State pursuant to subsection 1 of NRS 293.4687 to determine the petition district in which he resides. The registered voter may rely on the information contained in the list when he indicates the appropriate petition district, unless he believes that the information is inaccurate.*

3. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document.

~~{3.}~~ 4. 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.

Sec. 14. Notwithstanding the definition of "petition district" set forth in sections 2 and 11 of this act, until July 1, 2011, "petition district" as used in chapters 293 and 295 of NRS means congressional districts established for the State of Nevada.

Sec. 15. This act becomes effective upon passage and approval.