

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 12 of this bill requires a petition for initiative or referendum to be signed by a number of registered voters in each assembly district in the State that equals at least 10 percent of the voters who voted in that assembly district in the last preceding general election. **Section 3** of this bill requires the Secretary of State to conduct a hearing on each constitutional amendment or statewide measure proposed by initiative or referendum that will appear on the ballot at the 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 assembly 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



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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 assembly district in which each registered voter resides. **Section 13** of this bill authorizes a circulator of a petition to provide a registered voter access to the Internet through an electronic device for the purpose of determining the assembly district in which the voter resides.

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 of this act.

Sec. 2. *“Assembly district” means a district created pursuant to the provisions of chapter 218 of NRS for the election of members of the Assembly.*

Sec. 3. 1. *For each constitutional amendment or statewide measure proposed by initiative or referendum to be placed on the ballot by the Secretary of State, the Secretary of State shall, not less than 60 days before the election in which the initiative or referendum will appear on the ballot, conduct at least one public hearing pursuant to this section.*

2. The Secretary of State shall provide notice of any hearing held pursuant to subsection 1. The Secretary of State shall:

(a) Place a notice of the time, date and place of the hearing on his Internet website at least 30 days before the date of the hearing.

(b) Cause notice of the time, date and place of the hearing to be published on three dates of publication before the hearing, the last of which must be at least 5 days before the hearing, in at least one newspaper of general circulation in each county of the State. There must be at least 10 days from the first to last dates of publication, including both the first and last days.

(c) Mail notice of the time, date and place of the hearing to each member of the two committees appointed pursuant to NRS 293.252 at least 10 days before the date of the hearing.

(d) Mail notice of the time, date and place of the hearing to each person or group of persons who submitted a petition for initiative or referendum to a county clerk.

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.



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

3 293.127563 1. As soon as practicable after each general
4 election, the Secretary of State shall determine the number of
5 signatures required to be gathered from each ~~[a county]~~ *assembly*
6 *district* within the State for a petition for initiative that proposes a
7 statute, an amendment to *a* statute or an amendment to the
8 Constitution of this State.

9 2. To determine the number of signatures required to be
10 gathered from ~~[a county]~~ *an assembly district*, the Secretary of
11 State shall ~~[multiply]~~ *calculate* the amount that equals 10 percent of
12 the voters who voted in ~~[the entire State]~~ *that assembly district* at
13 the last preceding general election . ~~[by the population percentage~~
14 ~~for that county-~~

15 ~~—3. As used in this section:~~

16 ~~—(a) “Total population of the State” means the determination of~~
17 ~~the total population of the State by the national decennial census~~
18 ~~conducted by the Bureau of the Census of the United States~~
19 ~~Department of Commerce pursuant to Section 2 of Article I of the~~
20 ~~Constitution of the United States and reported by the Secretary of~~
21 ~~Commerce to the Governor pursuant to 13 U.S.C. § 141(c).~~

22 ~~—(b) “b)population percentage for that county” means the figure~~
23 ~~obtained by dividing the population of the county, as determined by~~
24 ~~the national decennial census conducted by the Bureau of the~~
25 ~~Census of the United States Department of Commerce pursuant to~~
26 ~~Section 2 of Article I of the Constitution of the United States and~~
27 ~~reported by the Secretary of Commerce to the Governor pursuant to~~
28 ~~13 U.S.C. § 141(c), by the total population of the State.]~~

29 **Sec. 6.** NRS 293.1276 is hereby amended to read as follows:

30 293.1276 1. Within 4 days, excluding Saturdays, Sundays
31 and holidays, after the submission of a petition containing signatures
32 which are required to be verified pursuant to NRS 293.128, 293.165,
33 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110, the
34 county clerk shall determine the total number of signatures affixed
35 to the documents *and, in the case of a petition proposing a statute,*
36 *an amendment to a statute or an amendment to the Constitution,*
37 *shall tally the number of signatures for each assembly district*
38 *contained fully or partially within his county* and forward that
39 information to the Secretary of State.

40 2. If the Secretary of State finds that the total number of
41 signatures filed with all the county clerks is less than 100 percent of
42 the required number of registered voters, he shall so notify the
43 person who submitted the petition and the county clerks and no
44 further action may be taken in regard to the petition. If the petition is
45 a petition to recall a county, district or municipal officer, the



1 Secretary of State shall also notify the officer with whom the
2 petition is to be filed.

3 3. After the petition is submitted to the county clerk, it must
4 not be handled by any other person except by an employee of the
5 county clerk's office until it is filed with the Secretary of State.

6 **Sec. 7.** NRS 293.1277 is hereby amended to read as follows:

7 293.1277 1. If the Secretary of State finds that the total
8 number of signatures submitted to all the county clerks is 100
9 percent or more of the number of registered voters needed to declare
10 the petition sufficient, he shall immediately so notify the county
11 clerks. Within 9 days, excluding Saturdays, Sundays and holidays,
12 after notification, each of the county clerks shall determine the
13 number of registered voters who have signed the documents
14 submitted in his county ~~and~~ *and, in the case of a petition proposing*
15 *a statute, an amendment to a statute or an amendment to the*
16 *Constitution, shall tally the number of signatures for each*
17 *assembly district contained or fully contained within his county.*

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

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

35 4. *In the case of a petition proposing a statute, an amendment*
36 *to a statute or an amendment to the Constitution, when the county*
37 *clerk is determining the number of registered voters who signed*
38 *the documents from each assembly district contained fully or*
39 *partially within his county, he must use the statewide voter*
40 *registration list available pursuant to NRS 293.675.*

41 5. Except as otherwise provided in subsection ~~[6.]~~ 7, upon
42 completing the examination, the county clerk shall immediately
43 attach to the documents a certificate properly dated, showing the
44 result of his examination *, including the tally of signatures by*
45 *assembly district, if required,* and transmit the documents with the



1 certificate to the Secretary of State. *If an assembly district*
2 *comprises more than one county and the petition proposes a*
3 *statute, an amendment to a statute or an amendment to the*
4 *Constitution, the appropriate county clerks shall comply with the*
5 *regulations adopted by the Secretary of State pursuant to this*
6 *section to complete the certificate.* A copy of this certificate must
7 be filed in the clerk's office. When the county clerk transmits the
8 certificate to the Secretary of State, the county clerk shall notify the
9 Secretary of State of the number of requests to remove a name
10 received by the county clerk pursuant to NRS 295.055 or 306.015.

11 ~~[5-]~~ 6. A person who submits a petition to the county clerk
12 which is required to be verified pursuant to NRS 293.128, 293.165,
13 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be
14 allowed to witness the verification of the signatures. A public officer
15 who is the subject of a recall petition must also be allowed to
16 witness the verification of the signatures on the petition.

17 ~~[6-]~~ 7. For any petition containing signatures which are
18 required to be verified pursuant to the provisions of NRS 293.165,
19 293.200, 306.035 or 306.110 for any county, district or municipal
20 office within one county, the county clerk shall not transmit to the
21 Secretary of State the documents containing the signatures of the
22 registered voters.

23 ~~[7-]~~ 8. The Secretary of State ~~[may]~~ *shall* by regulation
24 establish further procedures for carrying out the provisions of this
25 section.

26 **Sec. 8.** NRS 293.1278 is hereby amended to read as follows:

27 293.1278 1. If the certificates received by the Secretary of
28 State from all the county clerks establish that the number of valid
29 signatures is less than 90 percent of the required number of
30 registered voters, the petition shall be deemed to have failed to
31 qualify, and the Secretary of State shall immediately so notify the
32 petitioners and the county clerks.

33 2. If those certificates establish that the number of valid
34 signatures is equal to or more than the sum of 100 percent of the
35 number of registered voters needed to make the petition sufficient
36 plus the total number of requests to remove a name received by the
37 county clerks pursuant to NRS 295.055 or 306.015 ~~[and]~~ *and, in the*
38 *case of a petition proposing a statute, an amendment to a statute*
39 *or an amendment to the Constitution, that the petition has the*
40 *minimum number of signatures required for each assembly*
41 *district,* the petition shall be deemed to qualify as of the date of
42 receipt by the Secretary of State of those certificates, and the
43 Secretary of State shall immediately so notify the petitioners and the
44 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 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.

Sec. 9. 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 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



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1 number of voters who voted at the last preceding general election in
2 that county are valid until he has removed each name as requested
3 pursuant to NRS 295.055 or 306.015. In the case of a petition for
4 initiative that proposes a statute, an amendment to *a* statute or an
5 amendment to the Constitution of this State, if the statistical
6 sampling shows that the number of valid signatures in any ~~county~~
7 *assembly district* is 90 percent or more but less than the sum of 100
8 percent of the number of signatures of registered voters required for
9 that ~~county~~ *assembly district* pursuant to NRS 295.012 plus the
10 total number of requests to remove a name received by the county
11 clerk ~~in that~~ *or county clerks, if the assembly district comprises*
12 *more than one county*, pursuant to NRS 295.055, the Secretary of
13 State may order the county clerk to examine every signature for
14 verification.

15 3. Within 12 days, excluding Saturdays, Sundays and holidays,
16 after receipt of such an order, the county clerk *or county clerks* shall
17 determine from the records of registration what number of registered
18 voters have signed the petition ~~and~~ *and, if appropriate, tally those*
19 *signatures by assembly district*. If necessary, the board of county
20 commissioners shall allow the county clerk additional assistants for
21 examining the signatures and provide for their compensation. In
22 determining from the records of registration what number of
23 registered voters have signed the petition ~~and~~ *and in determining in*
24 *which assembly district the voters reside*, the county clerk must use
25 the statewide voter registration list. The county clerk may rely on
26 the appearance of the signature and the address and date included
27 with each signature in determining the number of registered voters
28 that signed the petition.

29 4. Except as otherwise provided in subsection 5, upon
30 completing the examination, the county clerk *or county clerks* shall
31 immediately attach to the documents of the petition an amended
32 certificate, properly dated, showing the result of the examination
33 and shall immediately forward the documents with the amended
34 certificate to the Secretary of State. A copy of the amended
35 certificate must be filed in the county clerk's office. *In the case of a*
36 *petition to propose a statute, an amendment to a statute or an*
37 *amendment to the Constitution, if an assembly district comprises*
38 *more than one county, the county clerks shall comply with the*
39 *regulations adopted by the Secretary of State pursuant to this*
40 *section to complete the amended certificate.*

41 5. For any petition containing signatures which are required to
42 be verified pursuant to the provisions of NRS 293.165, 293.200,
43 306.035 or 306.110 for any county, district or municipal office
44 within one county, the county clerk shall not forward to the



1 Secretary of State the documents containing the signatures of the
2 registered voters.

3 6. Except for a petition to recall a county, district or municipal
4 officer, the petition shall be deemed filed with the Secretary of State
5 as of the date on which he receives certificates from the county
6 clerks showing the petition to be signed by the requisite number of
7 voters of the State.

8 7. If the amended certificates received from all county clerks
9 by the Secretary of State establish that the petition is still
10 insufficient, he shall immediately so notify the petitioners and the
11 county clerks. If the petition is a petition to recall a county, district
12 or municipal officer, the Secretary of State shall also notify the
13 officer with whom the petition is to be filed.

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

16 **Sec. 10.** NRS 293.4687 is hereby amended to read as follows:

17 293.4687 1. The Secretary of State shall maintain a website
18 on the Internet for public information maintained, collected or
19 compiled by the Secretary of State that relates to elections, which
20 must include, without limitation:

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

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

25 (c) ***A current list of the registered voters in this State that also***
26 ***indicates the assembly district in which each registered voter***
27 ***resides;***

28 (d) ***A map or maps indicating the boundaries of each assembly***
29 ***district; and***

30 (e) All reports on campaign contributions and expenditures
31 submitted to the Secretary of State pursuant to the provisions of
32 NRS 294A.120, 294A.125, 294A.140, 294A.150, 294A.200,
33 294A.210, 294A.220, 294A.270, 294A.280, 294A.283, 294A.360
34 and 294A.362 and all reports on contributions received by and
35 expenditures made from a legal defense fund submitted to the
36 Secretary of State pursuant to NRS 294A.286.

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

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



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1 to comply with the provisions of subsection 1 with regard to that
2 information.

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

5 *“Assembly district” means a district created pursuant to the*
6 *provisions of chapter 218 of NRS for the election of members of*
7 *the Assembly.*

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

9 295.012 ~~[(1)]~~ A petition for initiative that proposes a statute,
10 an amendment to *a* statute or an amendment to the Constitution
11 must be proposed by a number of registered voters from each
12 ~~[county]~~ *assembly district* in the State that is at least equal to 10
13 percent of the voters who voted in ~~[the entire State]~~ *that assembly*
14 *district* at the last preceding general election . ~~[multiplied by the~~
15 ~~population percentage for that county.~~

16 ~~—2.— As used in this section:~~

17 ~~—(a) “Total population of the State” means the determination of~~
18 ~~the total population of the State by the national decennial census~~
19 ~~conducted by the Bureau of the Census of the United States~~
20 ~~Department of Commerce pursuant to Section 2 of Article I of the~~
21 ~~Constitution of the United States and reported by the Secretary of~~
22 ~~Commerce to the Governor pursuant to 13 U.S.C. § 141(c).~~

23 ~~—(b) “b)population percentage for that county” means the figure~~
24 ~~obtained by dividing the population of the county, as determined by~~
25 ~~the national decennial census conducted by the Bureau of the~~
26 ~~Census of the United States Department of Commerce pursuant to~~
27 ~~Section 2 of Article I of the Constitution of the United States and~~
28 ~~reported by the Secretary of Commerce to the Governor pursuant to~~
29 ~~13 U.S.C. § 141(c), by the total population of the State.]~~

30 **Sec. 13.** NRS 295.055 is hereby amended to read as follows:

31 295.055 1. The Secretary of State shall by regulation specify:

32 (a) The format for the signatures on a petition for an initiative or
33 referendum and make free specimens of the format available upon
34 request. The regulations must ensure that the format includes,
35 without limitation, that:

36 (1) In addition to signing the petition, a person who signs a
37 petition shall ~~[print]~~ :

38 *(I) Print* his given name followed by his surname on the
39 petition before his signature ~~[(1)]~~ ; *and*

40 *(II) Indicate the assembly district in which he resides.*

41 (2) Each signature must be dated.

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

44 2. *The registered voter may consult the list of the registered*
45 *voters in this State posted on the website maintained by the*



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1 *Secretary of State pursuant to subsection 1 of NRS 293.4687 to*
2 *determine the assembly district in which he resides. The registered*
3 *voter may rely on the information contained in the list when he*
4 *indicates the appropriate assembly district, unless he believes that*
5 *the information is inaccurate.*

6 *3. The circulator of the petition may carry with him an*
7 *electronic device capable of accessing the Internet for use by a*
8 *registered voter to access the list of registered voters in this State*
9 *posted on the website maintained by the Secretary of State*
10 *pursuant to NRS 293.4687. A circulator may not write in the*
11 *assembly district for any registered voter.*

12 *4. Each document of the petition must bear the name of a*
13 *county, and only registered voters of that county may sign the*
14 *document.*

15 ~~13.1~~ 5. A person who signs a petition may request that the
16 county clerk remove his name from it by transmitting his request in
17 writing to the county clerk at any time before the petition is filed
18 with the county clerk.

