

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, 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.*



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

2 **Sec. 4.** NRS 293.010 is hereby amended to read as follows:

3 293.010 As used in this title, unless the context otherwise
4 requires, the words and terms defined in NRS 293.013 to 293.121,
5 inclusive, *and section 2 of this act*, have the meanings ascribed to
6 them in those sections.

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

9 293.127563 1. As soon as practicable after each general
10 election, the Secretary of State shall determine the number of
11 signatures required to be gathered from each ~~{a county}~~ *petition*
12 *district* within the State for a petition for initiative that proposes a
13 statute, an amendment to *a* statute or an amendment to the
14 Constitution of this State.

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

21 ~~—3. As used in this section:~~

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

28 ~~—(b) “Population percentage for that county” means the figure~~
29 ~~obtained by dividing the population of the county, as determined by~~
30 ~~the national decennial census conducted by the Bureau of the~~
31 ~~Census of the United States Department of Commerce pursuant to~~
32 ~~Section 2 of Article I of the Constitution of the United States and~~
33 ~~reported by the Secretary of Commerce to the Governor pursuant to~~
34 ~~13 U.S.C. § 141(c), by the total population of the State.]~~

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

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



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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*



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1 *partially within his county, he must use the statewide voter*
2 *registration list available pursuant to NRS 293.675.*

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

18 ~~[5.]~~ 6. A person who submits a petition to the county clerk
19 which is required to be verified pursuant to NRS 293.128, 293.165,
20 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be
21 allowed to witness the verification of the signatures. A public officer
22 who is the subject of a recall petition must also be allowed to
23 witness the verification of the signatures on the petition.

24 ~~[6.]~~ 7. For any petition containing signatures which are
25 required to be verified pursuant to the provisions of NRS 293.165,
26 293.200, 306.035 or 306.110 for any county, district or municipal
27 office within one county, the county clerk shall not transmit to the
28 Secretary of State the documents containing the signatures of the
29 registered voters.

30 ~~[7.]~~ 8. The Secretary of State ~~[may]~~ *shall* by regulation
31 establish further procedures for carrying out the provisions of this
32 section.

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

34 293.1278 1. If the certificates received by the Secretary of
35 State from all the county clerks establish that the number of valid
36 signatures is less than 90 percent of the required number of
37 registered voters, the petition shall be deemed to have failed to
38 qualify, and the Secretary of State shall immediately so notify the
39 petitioners and the county clerks.

40 2. If those certificates establish that the number of valid
41 signatures is equal to or more than the sum of 100 percent of the
42 number of registered voters needed to make the petition sufficient
43 plus the total number of requests to remove a name received by the
44 county clerks pursuant to NRS 295.055 or 306.015 ~~[and]~~ *and, in the*
45 *case of a petition proposing a statute, an amendment to a statute*



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1 *or an amendment to the Constitution, that the petition has the*
2 *minimum number of signatures required for each petition district,*
3 the petition shall be deemed to qualify as of the date of receipt by
4 the Secretary of State of those certificates, and the Secretary of State
5 shall immediately so notify the petitioners and the county clerks.

6 3. If the certificates establish that the petitioners have 100
7 percent or more of the number of registered voters needed to make
8 the petition sufficient but the petition fails to qualify pursuant to
9 subsection 2, each county clerk who received a request to remove a
10 name pursuant to NRS 295.055 or 306.015 shall remove each name
11 as requested, amend the certificate and transmit the amended
12 certificate to the Secretary of State. If the amended certificates
13 establish that the petitioners have 100 percent or more of the number
14 of registered voters needed to make the petition sufficient ~~and~~ *and, in*
15 *the case of a petition proposing a statute, an amendment to a*
16 *statute or an amendment to the Constitution, that the petition has*
17 *the minimum number of signatures required for each petition*
18 *district,* the petition shall be deemed to qualify as of the date of
19 receipt by the Secretary of State of the amended certificates, and the
20 Secretary of State shall immediately so notify the petitioners and the
21 county clerks.

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

23 293.1279 1. If the statistical sampling shows that the number
24 of valid signatures filed is 90 percent or more, but less than the sum
25 of 100 percent of the number of signatures of registered voters
26 needed to declare the petition sufficient plus the total number of
27 requests to remove a name received by the county clerks pursuant to
28 NRS 295.055 or 306.015, the Secretary of State shall order the
29 county clerks to examine the signatures for verification. The county
30 clerks shall examine the signatures for verification until they
31 determine that 100 percent of the number of signatures of registered
32 voters needed to declare the petition sufficient are valid. If the
33 county clerks received a request to remove a name pursuant to NRS
34 295.055 or 306.015, the county clerks may not determine that 100
35 percent of the number of signatures of registered voters needed to
36 declare the petition sufficient are valid until they have removed each
37 name as requested pursuant to NRS 295.055 or 306.015.

38 2. Except as otherwise provided in this subsection, if the
39 statistical sampling shows that the number of valid signatures filed
40 in any county is 90 percent or more but less than the sum of 100
41 percent of the number of signatures of registered voters needed to
42 constitute 10 percent of the number of voters who voted at the last
43 preceding general election in that county plus the total number of
44 requests to remove a name received by the county clerk in that
45 county pursuant to NRS 295.055 or 306.015, the Secretary of State



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1 may order the county clerk in that county to examine every
2 signature for verification. If the county clerk received a request to
3 remove a name pursuant to NRS 295.055 or 306.015, the county
4 clerk may not determine that 100 percent or more of the number of
5 signatures of registered voters needed to constitute 10 percent of the
6 number of voters who voted at the last preceding general election in
7 that county are valid until he has removed each name as requested
8 pursuant to NRS 295.055 or 306.015. In the case of a petition for
9 initiative that proposes a statute, an amendment to *a* statute or an
10 amendment to the Constitution of this State, if the statistical
11 sampling shows that the number of valid signatures in any ~~county~~
12 *petition district* is 90 percent or more but less than the sum of 100
13 percent of the number of signatures of registered voters required for
14 that ~~county~~ *petition district* pursuant to NRS 295.012 plus the total
15 number of requests to remove a name received by the county clerk
16 ~~in that~~ *or county clerks, if the petition district comprises more*
17 *than one* county, pursuant to NRS 295.055, the Secretary of State
18 may order the county clerk to examine every signature for
19 verification.

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

34 4. Except as otherwise provided in subsection 5, upon
35 completing the examination, the county clerk *or county clerks* shall
36 immediately attach to the documents of the petition an amended
37 certificate, properly dated, showing the result of the examination
38 and shall immediately forward the documents with the amended
39 certificate to the Secretary of State. A copy of the amended
40 certificate must be filed in the county clerk's office. *In the case of a*
41 *petition to propose a statute, an amendment to a statute or an*
42 *amendment to the Constitution, if a petition district comprises*
43 *more than one county, the county clerks shall comply with the*
44 *regulations adopted by the Secretary of State pursuant to this*
45 *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.



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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 ~~[[1-]]~~ 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 ~~[[1-]]~~ ; and

(II) May indicate the petition district in which he resides. If the person does not indicate the petition district on the



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petition, the circulator 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.

