

ASSEMBLY BILL NO. 337—ASSEMBLYMAN DALY

MARCH 21, 2011

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing campaign practices.
(BDR 24-721)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to campaign practices; requiring a notice of an alleged violation of provisions governing campaign practices to include certain information; requiring the Secretary of State to provide a copy of the notice and any accompanying information to the person alleged in the notice to have committed the violation; authorizing the person to respond to such a notice; authorizing the Secretary of State to conduct an investigation based on such a notice in certain circumstances; authorizing the Secretary of State or a designated officer or employee of the Secretary of State to subpoena witnesses and require the production of documents or records by subpoena when conducting an investigation based on such a notice in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law confers authority upon the Secretary of State to conduct
2 investigations concerning alleged violations of chapter 294A of NRS governing
3 campaign practices. Existing law also authorizes a person who believes that any
4 provision of that chapter has been violated to notify the Secretary of State in
5 writing. The notice must be signed by the person and include any information in
6 support of the alleged violation. (NRS 294A.410) This bill specifies the information
7 that must be included in the notice and requires the Secretary of State to provide a
8 copy of the notice and any accompanying information to the person, if any, alleged
9 in the notice to have committed the violation. If, based on such a notice, the
10 Secretary of State determines that reasonable suspicion exists that a violation has
11 occurred, the Secretary of State is authorized to investigate the allegation. This bill
12 further provides that, if the notice is received within 180 days after the general



election, general city election or special election for the office or ballot question to which the notice pertains, the Secretary of State is authorized, when conducting an investigation based on the notice, to subpoena witnesses and require the production by subpoena of any books, papers, correspondence, memoranda, agreements or other documents or records in the possession of any person: (1) alleged in the notice to have committed the violation; or (2) who the Secretary of State or a designated officer or employee of the Secretary of State has reasonable cause to believe produced or disseminated the materials that are the subject of the notice, if the Secretary of State or a designated officer or employee of the Secretary of State determines that the documents or records are relevant or material to the investigation. Finally, this bill authorizes the Secretary of State or a designated officer or employee of the Secretary of State to apply to a court for an order compelling compliance if a person fails to testify or produce the required documents or records.

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

Section 1. NRS 294A.410 is hereby amended to read as follows:

294A.410 1. If it appears that the provisions of this chapter have been violated, the Secretary of State may:

(a) Conduct an investigation concerning the alleged violation and cause the appropriate proceedings to be instituted and prosecuted in the First Judicial District Court; or

(b) Refer the alleged violation to the Attorney General. The Attorney General shall investigate the alleged violation and institute and prosecute the appropriate proceedings in the First Judicial District Court without delay.

2. A person who believes that any provision of this chapter has been violated may notify the Secretary of State, in writing, of the alleged violation. The notice must be signed by the person alleging the violation and include ~~any~~:

(a) The full name and address of the person alleging the violation;

(b) A clear and concise statement of facts sufficient to establish that the alleged violation occurred;

(c) Any evidence substantiating the alleged violation;

(d) A certification by the person alleging the violation that the facts alleged in the notice are true to the best knowledge and belief of that person; and

(e) Any other information in support of the alleged violation.

3. *As soon as practicable after receiving a notice of an alleged violation pursuant to subsection 2, the Secretary of State shall provide a copy of the notice and any accompanying information to the person, if any, alleged in the notice to have committed the violation. Any response submitted to the notice must*



1 *be accompanied by a short statement of the grounds, if any, for*
2 *objecting to the alleged violation and include any evidence*
3 *substantiating the objection.*

4 *4. If the Secretary of State determines, based on a notice of*
5 *an alleged violation received pursuant to subsection 2, that*
6 *reasonable suspicion exists that a violation of this chapter has*
7 *occurred, the Secretary of State may conduct an investigation of*
8 *the alleged violation.*

9 *5. If a notice of an alleged violation is received pursuant to*
10 *subsection 2 not later than 180 days after the general election,*
11 *general city election or special election for the office or ballot*
12 *question to which the notice pertains, the Secretary of State, when*
13 *conducting an investigation of the alleged violation pursuant to*
14 *subsection 4, may subpoena witnesses and require the production*
15 *by subpoena of any books, papers, correspondence, memoranda,*
16 *agreements or other documents or records that the Secretary of*
17 *State or a designated officer or employee of the Secretary of State*
18 *determines are relevant or material to the investigation and are in*
19 *the possession of:*

20 *(a) Any person alleged in the notice to have committed the*
21 *violation; or*

22 *(b) If the notice does not include the name of a person alleged*
23 *to have committed the violation, any person who the Secretary of*
24 *State or a designated officer or employee of the Secretary of State*
25 *has reasonable cause to believe produced or disseminated the*
26 *materials that are the subject of the notice.*

27 *6. If a person fails to testify or produce any documents or*
28 *records in accordance with a subpoena issued pursuant to*
29 *subsection 5, the Secretary of State or designated officer or*
30 *employee may apply to the court for an order compelling*
31 *compliance. A request for an order of compliance may be*
32 *addressed to:*

33 *(a) The district court in and for the county where service may*
34 *be obtained on the person refusing to testify or produce the*
35 *documents or records, if the person is subject to service of process*
36 *in this State; or*

37 *(b) A court of another state having jurisdiction over the person*
38 *refusing to testify or produce the documents or records, if the*
39 *person is not subject to service of process in this State.*

