

Amendment No. 510

Senate Amendment to Senate Bill No. 133

(BDR 24-1)

Proposed by: Senate Committee on Legislative Operations and Elections**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 underlining* is newly added transitory language.

HAC



Date: 4/24/2011

S.B. No. 133—Revises provisions governing initiative petitions. (BDR 24-1)



SENATE BILL NO. 133—SENATOR RHODS

FEBRUARY 8, 2011

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing initiative petitions. (BDR 24-1)

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 ~~initiative petitions;~~ **elections;** providing that petition districts from which signatures for an initiative **or referendum** petition must be gathered are coterminous with ~~assembly~~ **congressional** districts; **providing for the method by which county clerks verify signatures on such petitions; revising certain requirements for petitions of referendum; amending the filing deadline for certain petitions;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Legislature to create petition districts from which signatures for a petition for initiative must be gathered. ~~(NRS 293.069, 293.127561) [This]~~ **Section 1 of this bill provides that petition districts are coterminous with assembly congressional districts. Sections 2 and 5 of this bill provide the manner by which the Secretary of State determines the number of signatures required from each petition district. Section 4 of this bill provides for the manner in which county clerks verify the signatures gathered on a petition. Sections 2-6 of this bill provide that the signature and verification requirements for initiative petitions also apply to petitions for referendum. Section 8 of this bill requires a person who signs a petition to indicate the petition district in which the person resides, if known. Section 9 of this bill amends the filing deadline for initiative petitions proposing an amendment to the Constitution and for petitions for referenda from the third Tuesday in May of an even-numbered year to the third Tuesday in June of an even-numbered year to comply with the holding of the Nevada Supreme Court in *We the People Nevada v. Miller*, 124 Nev. Adv. Op. 75, 192 P.3d 1166 (2008). Section 10 of this bill requires a circulator of a petition to include his or her street address on the affidavit accompanying the petition.**

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

Section 1. NRS 293.069 is hereby amended to read as follows:

293.069 "Petition district" means **a district** ~~established by the Legislature pursuant to NRS 293.127561; [an assembly district created pursuant to the provisions of NRS 218B.600 to 218B.805, inclusive, for the election of members~~

~~to the Assembly.] created pursuant to the provisions of NRS 304.060 to 304.120, inclusive, for the election of Representatives in Congress.~~

Sec. 2. 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 petition district within the State for a petition for initiative or referendum that proposes a ~~[statute, an amendment to a statute or an amendment to the Constitution of this State.]~~ constitutional amendment or statewide measure.

2. To determine the number of signatures required to be gathered from ~~the~~ each petition district, the Secretary of State shall calculate the amount that equals 10 percent of the voters who voted in ~~that petition district~~ this State at the last preceding general election ~~and divide that amount by the number of petition districts. Fractional numbers must be rounded up to the nearest whole number.~~

Sec. 3. 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 for initiative or referendum proposing a ~~[statute, an amendment to a statute or an amendment to the Constitution.]~~ constitutional amendment or statewide measure, shall tally the number of signatures for each petition district contained fully or partially within the 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, the Secretary of State 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.

4. The Secretary of State may adopt regulations establishing procedures to carry out the provisions of this section.

Sec. 4. 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, the Secretary of State 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 the county clerk's county and, in the case of a petition for initiative or referendum proposing a ~~[statute, an amendment to a statute or an amendment to the Constitution.]~~ constitutional amendment or statewide measure, shall tally the number of signatures for each petition district contained or fully contained within the county clerk's county. For the purpose of verification pursuant to this section, the county clerk shall not include in his or her tally of total signatures any signature included in the incorrect petition district.

2. ~~##~~ Except as otherwise provided in subsection 3, if more than 500 names have been signed on the documents submitted to a county clerk, the 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.

~~¶¶~~ If documents were submitted to the county clerk for more than one petition district wholly contained within that county, a separate random sample must be performed for each petition district.

3. If a petition district comprises more than one county and the petition is for an initiative or referendum proposing a constitutional amendment or a statewide measure, and if more than 500 names have been signed on the documents submitted for that petition district, the appropriate county clerks 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 clerks within the petition district 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 presented in the petition district, whichever is greater. The Secretary of State shall determine the number of signatures that must be verified by each county clerk within the petition district.

4. 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, the county clerk shall ensure that every application in the file is examined, including any application in his or her possession which may not yet be entered into the county clerk's 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 or her determination.

~~¶¶~~ 5. In the case of a petition for initiative or referendum proposing a ~~statute, an amendment to a statute or an amendment to the Constitution,~~ constitutional amendment or statewide measure, when the county clerk is determining the number of registered voters who signed the documents from each petition district contained fully or partially within the county clerk's county, he or she must use the statewide voter registration list available pursuant to NRS 293.675.

~~¶¶~~ 6. Except as otherwise provided in subsection ~~¶¶~~ 8. upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of the examination, including the tally of signatures by petition district, if required, and transmit the documents with the certificate to the Secretary of State. ~~¶¶~~ In the case of a petition for initiative or referendum proposing a constitutional amendment or statewide measure, 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.

~~¶¶~~ 7. 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.

~~¶¶~~ 8. 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

1 for any county, district or municipal office within one county, the county clerk shall
2 not transmit to the Secretary of State the documents containing the signatures of the
3 registered voters.

4 ~~§ 9.~~ 9. The Secretary of State shall by regulation establish further procedures
5 for carrying out the provisions of this section.

6 **Sec. 5. NRS 293.1278 is hereby amended to read as follows:**

7 293.1278 1. If the certificates received by the Secretary of State from all the
8 county clerks establish that the number of valid signatures is less than 90 percent of
9 the required number of registered voters, the petition shall be deemed to have failed
10 to qualify, and the Secretary of State shall immediately so notify the petitioners and
11 the county clerks.

12 2. If those certificates establish that the number of valid signatures is equal to
13 or more than the sum of 100 percent of the number of registered voters needed to
14 make the petition sufficient plus the total number of requests to remove a name
15 received by the county clerks pursuant to NRS 295.055 or 306.015 and, in the case
16 of a petition for initiative or referendum proposing a ~~statute, an amendment to a~~
17 ~~statute or an amendment to the Constitution,~~ constitutional amendment or
18 statewide measure, that the petition has the minimum number of signatures
19 required for each petition district, the petition shall be deemed to qualify as of the
20 date of receipt by the Secretary of State of those certificates, and the Secretary of
21 State shall immediately so notify the petitioners and the county clerks.

22 3. If the certificates establish that the petitioners have 100 percent or more of
23 the number of registered voters needed to make the petition sufficient but the
24 petition fails to qualify pursuant to subsection 2, each county clerk who received a
25 request to remove a name pursuant to NRS 295.055 or 306.015 shall remove each
26 name as requested, amend the certificate and transmit the amended certificate to the
27 Secretary of State. If the amended certificates establish that the petitioners have 100
28 percent or more of the number of registered voters needed to make the petition
29 sufficient and, in the case of a petition for initiative or referendum proposing a
30 ~~statute, an amendment to a statute or an amendment to the Constitution,~~
31 constitutional amendment or statewide measure, that the petition has the minimum
32 number of signatures required for each petition district, the petition shall be deemed
33 to qualify as of the date of receipt by the Secretary of State of the amended
34 certificates, and the Secretary of State shall immediately so notify the petitioners
35 and the county clerks.

36 **Sec. 6. NRS 293.1279 is hereby amended to read as follows:**

37 293.1279 1. If the statistical sampling shows that the number of valid
38 signatures filed is 90 percent or more, but less than the sum of 100 percent of the
39 number of signatures of registered voters needed to declare the petition sufficient
40 plus the total number of requests to remove a name received by the county clerks
41 pursuant to NRS 295.055 or 306.015, the Secretary of State shall order the county
42 clerks to examine the signatures for verification. The county clerks shall examine
43 the signatures for verification until they determine that 100 percent of the number
44 of signatures of registered voters needed to declare the petition sufficient are valid.
45 If the county clerks received a request to remove a name pursuant to NRS 295.055
46 or 306.015, the county clerks may not determine that 100 percent of the number of
47 signatures of registered voters needed to declare the petition sufficient are valid
48 until they have removed each name as requested pursuant to NRS 295.055 or
49 306.015.

50 2. Except as otherwise provided in this subsection, if the statistical sampling
51 shows that the number of valid signatures filed in any county is 90 percent or more
52 but less than the sum of 100 percent of the number of signatures of registered voters
53 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 number of voters who voted at the last preceding general election in that county are valid until the county clerk has removed each name as requested pursuant to NRS 295.055 or 306.015. In the case of a petition for initiative or referendum that proposes a ~~[statute, an amendment to a statute or an amendment to the Constitution of this State,]~~ constitutional amendment or statewide measure, if the statistical sampling shows that the number of valid signatures in any petition district is 90 percent or more but less than the sum of 100 percent of the number of signatures of registered voters required for that petition district pursuant to NRS 295.012 plus the total number of requests to remove a name received by the county clerk or county clerks, if the petition district comprises more than one county, pursuant to NRS 295.055, the Secretary of State may order a county clerk to examine every signature for verification.

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

4. Except as otherwise provided in subsection 5, upon completing the examination, the county clerk or county clerks shall immediately attach to the documents of the petition an amended certificate, properly dated, showing the result of the examination and shall immediately forward the documents with the amended certificate to the Secretary of State. A copy of the amended certificate must be filed in the county clerk's office. In the case of a petition for initiative or referendum to propose a ~~[statute, an amendment to a statute or an amendment to the Constitution,]~~ constitutional amendment or statewide measure, 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 the Secretary of State 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, the Secretary of State 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. 7. 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 petition district in the State that is at least equal to 10 percent of the voters who voted in that petition district at the last preceding general election.]~~ **The number of registered voters required pursuant to Section 1 of Article 19 of the Nevada Constitution to propose a petition for referendum must be apportioned equally among the petition districts, and the number of signatures required from each petition district must be equal.**

Sec. 8. 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:

(I) Shall print the person's given name followed by the person's surname on the petition before the person's signature; and

(II) ~~[May]~~ **Must** indicate the petition district in which the person resides. ~~[If the person does not indicate the petition district on the 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 the registered voter resides. The registered voter may rely on the information contained in the list when the registered voter indicates the appropriate petition district, unless the registered voter believes that the information is inaccurate.

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

4. A person who signs a petition may request that the county clerk remove the person's name from the petition by transmitting a request in writing to the county clerk at any time before the petition is filed with the county clerk.

Sec. 9. NRS 295.056 is hereby amended to read as follows:

295.056 1. Before a petition for initiative or referendum is filed with the Secretary of State, the petitioners must submit to each county clerk for verification pursuant to NRS 293.1276 to 293.1279, inclusive, the document or documents which were circulated for signature within the clerk's county. The clerks shall give the person submitting a document or documents a receipt stating the number of documents and pages and the person's statement of the number of signatures contained therein.

2. If a petition for initiative proposes a statute or an amendment to a statute, the document or documents must be submitted not later than the second Tuesday in November of an even-numbered year.

3. If a petition for initiative proposes an amendment to the Constitution, the document or documents must be submitted not later than the third Tuesday in ~~[May]~~ **June** of an even-numbered year.

4. If the petition is for referendum, the document or documents must be submitted not later than the third Tuesday in ~~May~~ June of an even-numbered year.

5. All documents which are submitted to a county clerk for verification must be submitted at the same time. If documents concerning the same petition are submitted for verification to more than one county clerk, the documents must be submitted to each county clerk on the same day. At the time that the petition is submitted to a county clerk for verification, the petitioners may designate a contact person who is authorized by the petitioners to address questions or issues relating to the petition.

Sec. 10. NRS 295.0575 is hereby amended to read as follows:

295.0575 A petition for a constitutional amendment or a petition for a statewide measure proposed by an initiative or referendum may consist of more than one document. Each document of a petition must have attached to it when submitted an affidavit executed by the circulator thereof stating:

1. That the circulator personally circulated the document. ~~It~~

2. The street address of the residence where the circulator actually resides, unless a street address has not been assigned. If a street address has not been assigned, the document must contain the mailing address of the circulator.

3. The number of signatures thereon. ~~It~~

~~3.~~ 4. That all the signatures were affixed in the circulator's presence. ~~It and~~
~~4.~~ 5. That each signer had an opportunity before signing to read the full text of the act or resolution on which the initiative or referendum is demanded.

~~Sec. 2.~~ **Sec. 11.** NRS 293.127561, 293.127562 and 295.005 are hereby repealed.

~~Sec. 3.~~ **Sec. 12.** This act becomes effective ~~on July 1, 2011.~~ upon passage and approval.

TEXT OF REPEALED SECTIONS

293.127561 Establishment of petition districts; criteria.

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 NRS 293.127562.

293.127562 Maps of petition districts: Duties of Director of Legislative Counsel Bureau. 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 NRS 293.127561.

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.

295.005 “Petition district” defined. As used in NRS 295.005 to 295.061, inclusive, unless the context otherwise requires, “petition district” has the meaning ascribed to it in NRS 293.069.