

Amendment No. 668

Senate Amendment to Assembly Bill No. 35 First Reprint	(BDR 24-398)
Proposed by: Senate Committee on Legislative Operations and Elections	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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.

SHORT FORM AMENDMENT

Section 4.5 of this act is the only section affected by this amendment.

SJA/HAC



Date: 5/19/2013

A.B. No. 35—Makes various changes to provisions governing elections.
(BDR 24-398)



If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:**Legislative Counsel's Digest:**

Existing law requires candidates and certain other persons, committees and political parties to file reports with the Secretary of State concerning campaign contributions, loans, campaign expenses and expenditures. (NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.270, 294A.280, 294A.360, 294A.362) Currently, separate reporting requirements exist for: (1) primary or general elections; and (2) special elections. (NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.360, 294A.362) **Section 5** of this bill provides that, if a special election is held on the same day as a primary election or general election, any candidate, person, committee or political party that is otherwise required to file a report relating to the special election must instead comply with the reporting requirements for the primary election or general election, as applicable.

Existing law also establishes separate reporting requirements based on whether a general election occurs before July 1 or on or after July 1. (NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.360) **Sections 11, 15, 16, 18-20 and 38** of this bill remove those separate provisions, and **sections 11, 15, 18 and 19** also expand the reporting requirements to recall elections.

Existing law requires expenditures made on behalf of a candidate or a group of candidates by a person who is not acting under the direction or control of the candidate or group of candidates, and other expenditures that are made on behalf of the candidate or group of candidates, to be reported to the Secretary of State. (NRS 294A.140, 294A.210) **Sections 15 and 19** provide that certain contributions received and expenditures which are: (1) made for or against a candidate or a group of candidates; and (2) not coordinated with a candidate or a group of candidates, must be reported. **Section 4.5** of this bill sets forth the circumstances under which an expenditure ~~(will not)~~ will not be considered to be coordinated with a candidate or a group of candidates.

A committee for political action that advocates the passage or defeat of a ballot question or a group of questions is required by existing law to report contributions received and expenditures made. (NRS 294A.150, 294A.220) **Sections 16 and 20** of this bill make these reporting requirements applicable even if the question or group of questions is removed from the ballot by court order.

Existing law governs the disposition of unspent contributions. (NRS 294A.160) **Section 17** of this bill expands the application of those provisions to: (1) a candidate who is removed from the ballot by court order or is otherwise not elected to office; and (2) a public officer who resigns from his or her office, is not a candidate for any other office and has unspent contributions.

Under existing law, a candidate is required to file reports of contributions and expenses even if the candidate withdraws his or her candidacy, receives no contributions, has no expenses, is removed from the ballot by court order or is the subject of a recall petition and the special election is not held. (NRS 294A.350) **Section 27** of this bill expands this requirement to include a candidate who: (1) ends his or her campaign without formally withdrawing his or her candidacy; (2) is not opposed in an election; or (3) is defeated in the primary election. **Section 27** also prescribes a process by which a candidate under certain circumstances may end his or her campaign.

If a person, committee or entity that is required to file a report or register pursuant to chapter 294A of NRS fails to do so in accordance with the applicable provisions of that chapter, existing law provides that such a person, committee or entity is subject to a civil penalty. (NRS 294A.420) **Section 37** of this bill provides that this and any other remedies and penalties provided by chapter 294A of NRS are cumulative and supplement any other legal or equitable remedies and penalties that may exist, including any applicable criminal penalties.

Section 4.5 of Assembly Bill No. 35 First Reprint is hereby amended as follows:

1 Sec. 4.5. ~~1. For the purposes of this chapter, an expenditure is~~
2 ~~coordinated with a candidate or group of candidates if the expenditure is made,~~
3 ~~without limitation:~~

4 ~~(a) With the cooperation of or in consultation with the candidate or group of~~
5 ~~candidates for whose benefit the expenditure is made;~~

6 ~~(b) Pursuant to any formal, informal, oral or written contract or~~
7 ~~arrangement with a candidate or group of candidates;~~

8 ~~(c) With the involvement of a candidate or group of candidates in any~~
9 ~~decision regarding, for any communication paid for by the expenditure;~~

10 ~~(1) The content, intended audience, timing, frequency, size or~~
11 ~~prominence of the communication;~~

12 ~~(2) The means or mode of making the communication; or~~

13 ~~(3) The specific media outlet used to make the communication; or~~

14 ~~(d) By a person to whom is conveyed, during a discussion with a candidate or~~
15 ~~group of candidates, information regarding plans, projects, activities or needs of~~
16 ~~the campaign of the candidate or group of candidates which is material to the~~
17 ~~creation, production or distribution of any communication paid for by the~~
18 ~~expenditure.~~

19 ~~2.~~ For the purposes of this chapter, an expenditure is not considered to be
20 coordinated with a candidate or group of candidates if the expenditure is made:

21 (a) To pay for a communication that uses an image of or information about
22 a candidate or group of candidates if the image or information is obtained from
23 publicly available sources, including, without limitation, Internet websites,
24 newspapers or public records, and is not obtained because of any suggestion,
25 direction, solicitation, cooperation or consultation between the person making the
26 expenditure and the candidate or group of candidates or the opponent or
27 opponents of the candidate or group of candidates; and

28 (b) By a person who makes an inquiry regarding the position of the
29 candidate or group of candidates on a legislative or policy issue if the response of
30 the candidate or group of candidates to the inquiry does not include any
31 information regarding plans, projects, activities or needs of the campaign of the
32 candidate or group of candidates.

33 ~~3.~~ 2. As used in this section, "candidate or group of candidates" includes,
34 without limitation:

35 (a) Any person under the direction or control of a candidate or group of
36 candidates or otherwise involved in the campaign of a candidate or group of
37 candidates;

38 (b) Any person related to a candidate within the second degree of
39 consanguinity or affinity; and

40 (c) An agent of a candidate or group of candidates.