

ASSEMBLY BILL NO. 23—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE SECRETARY OF STATE)

PREFILED DECEMBER 20, 2014

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes to provisions governing elections. (BDR 24-446)

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 elections; clarifying the authority of the Secretary of State regarding interpretations and other actions necessary for the effective administration of certain statutes and regulations; revising the beginning and ending dates of the period during which certain limits apply to the amount that may be committed or contributed to a candidate or a legal defense fund; providing that a petition to recall a public officer may only be signed by a registered voter who actually voted in the election at which the public officer was elected; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Secretary of State to provide interpretations and take other actions necessary for the effective administration of statutes and regulations governing the conduct of primary, general, special and district elections. (NRS 293.247) **Section 1** of this bill clarifies that the Secretary of State may provide interpretations and take other actions necessary for the effective administration of all of the provisions of title 24 of NRS and any regulations adopted pursuant thereto, including statutes and regulations governing the conduct of elections.

Under existing law, a person may not contribute or commit to contribute more than \$5,000 for a primary election and \$5,000 for a general election to a candidate for state, district, county or township office during the period beginning 30 days before the start of the regular session of the Legislature immediately after a general election for that office and ending 30 days before the start of the regular session of



the Legislature immediately following the next general election for that office. During the same period, a person is prohibited from making or committing to make a contribution to a legal defense fund of a candidate or public officer in an amount which exceeds \$10,000. Existing law also prohibits a candidate or public officer, as applicable, from accepting a contribution or commitment to make a contribution in excess of those amounts. (Nev. Const. Art. 2, §10, NRS 294A.100, 294A.287) **Section 2** of this bill changes the period to which those contribution limits apply so that the period begins on January 1 immediately after a general election for an office and ends on December 31 immediately after the next general election for that office.

Existing law provides that a violation of the contribution limits to a candidate or a legal defense fund is a category E felony. (NRS 294A.100, 294A.287) **Section 4** of this bill provides that certain contributions made or committed to be made under existing law at the end of the contribution periods in early January 2011, 2013 or 2015 shall be deemed to have been made or committed to be made on December 31, 2010, 2012 or 2014, respectively, so that no person is guilty retrospectively of committing a crime as a result of the changes made by **section 2**.

In *Strickland v. Waymire*, 126 Nev. 230, 240 (2010), the Nevada Supreme Court held that Section 9 of Article 2 of the Nevada Constitution provides that, “[w]hile all registered voters can vote at a special recall election, only voters who voted at the relevant baseline election can qualify a recall petition” by signing a petition for the recall. **Section 3** of this bill conforms statute to this ruling. (NRS 306.020)

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

Section 1. NRS 293.247 is hereby amended to read as follows:

293.247 1. The Secretary of State shall adopt regulations, not inconsistent with the election laws of this State, for the conduct of primary, general, special and district elections in all cities and counties. Permanent regulations of the Secretary of State that regulate the conduct of a primary, general, special or district election and are effective on or before the last business day of February immediately preceding a primary, general, special or district election govern the conduct of that election.

2. The Secretary of State shall prescribe the forms for a declaration of candidacy, certificate of candidacy, acceptance of candidacy and any petition which is filed pursuant to the general election laws of this State.

3. The regulations must prescribe:

- (a) The duties of election boards;
- (b) The type and amount of election supplies;
- (c) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;
- (d) The method to be used in distributing ballots to precincts and districts;
- (e) The method of inspection and the disposition of ballot boxes;



- (f) The form and placement of instructions to voters;
- (g) The recess periods for election boards;
- (h) The size, lighting and placement of voting booths;
- (i) The amount and placement of guardrails and other furniture and equipment at voting places;
- (j) The disposition of election returns;
- (k) The procedures to be used for canvasses, ties, recounts and contests, including, without limitation, the appropriate use of a paper record created when a voter casts a ballot on a mechanical voting system that directly records the votes electronically;
- (l) The procedures to be used to ensure the security of the ballots from the time they are transferred from the polling place until they are stored pursuant to the provisions of NRS 293.391 or 293C.390;
- (m) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;
- (n) The procedures to be used for the testing, use and auditing of a mechanical voting system which directly records the votes electronically and which creates a paper record when a voter casts a ballot on the system;
- (o) The procedures to be used for the disposition of absent ballots in case of an emergency;
- (p) The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors or registered voters who are authorized to use approved electronic transmission pursuant to the provisions of this title;
- (q) The forms for applications to register to vote and any other forms necessary for the administration of this title; and
- (r) Such other matters as determined necessary by the Secretary of State.
4. The Secretary of State may provide interpretations and take other actions necessary for the effective administration of the *provisions of this title and any regulations adopted pursuant thereto, including, without limitation*, statutes and regulations governing the conduct of primary, general, special and district elections in this State.
5. The Secretary of State shall prepare and distribute to each county and city clerk copies of:
- (a) Laws and regulations concerning elections in this State;
- (b) Interpretations issued by the Secretary of State's Office; and
- (c) Any Attorney General's opinions or any state or federal court decisions which affect state election laws or regulations whenever any of those opinions or decisions become known to the Secretary of State.



Sec. 2. NRS 294A.100 is hereby amended to read as follows:

294A.100 1. A person shall not make or commit to make a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds \$5,000 for the primary election, regardless of the number of candidates for the office, and \$5,000 for the general election, regardless of the number of candidates for the office, during the period:

(a) Beginning ~~{from 30 days before the regular session of the Legislature}~~ **January 1 of the year** immediately following the last general election for the office and ending ~~{30 days before the regular session of the Legislature}~~ **December 31** immediately following the next general election for the office, if that office is a state, district, county or township office; or

(b) Beginning from 30 days after the last election for the office and ending 30 days after the next general city election for the office, if that office is a city office.

2. A candidate shall not accept a contribution or commitment to make a contribution made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 3. NRS 306.020 is hereby amended to read as follows:

306.020 1. Every public officer in the State of Nevada is subject to recall from office by the registered voters of the State or of the county, district or municipality that the public officer represents, as provided in this chapter and Section 9 of Article 2 of the Constitution of the State of Nevada. A public officer who is appointed to an elective office is subject to recall in the same manner as provided for an officer who is elected to that office.

2. The petition to recall a public officer may be signed by any registered voter of the State or of the county, district, municipality or portion thereof that the public officer represents ~~{, regardless of whether the registered voter cast a ballot}~~ **who actually voted** in the election at which the public officer was elected.

3. The petition must, in addition to setting forth the reason why the recall is demanded:

(a) Contain the residence addresses of the signers and the date that the petition was signed;

(b) Contain a statement of the minimum number of signatures necessary to the validity of the petition;

(c) Contain at the top of each page and immediately above the signature line, in at least 10-point bold type, the words "Recall Petition";

(d) Include the date that a notice of intent was filed; and



(e) Have the designation: "Signatures of registered voters seeking the recall of (name of public officer for whom recall is sought)" on each page if the petition contains more than one page.

Sec. 4. 1. For the purposes of NRS 294A.100, as amended by section 2 of this act:

(a) A person who, on or after January 1, 2011, and on or before January 8, 2011, made or committed to make a contribution to a candidate for an office having a term of 6 years, the last preceding general election for which was in 2010, shall be deemed to have made or committed to make the contribution on December 31, 2010.

(b) A candidate for an office described in paragraph (a) who, on or after January 1, 2011, and on or before January 8, 2011, accepted a contribution or a commitment to make a contribution, shall be deemed to have accepted the contribution or commitment on December 31, 2010.

(c) A person who, on or after January 1, 2013, and on or before January 5, 2013, made or committed to make a contribution to a candidate for an office having a term of 4 years or more, the last preceding general election for which was in 2012, shall be deemed to have made or committed to make the contribution on December 31, 2012.

(d) A candidate for an office described in paragraph (c) who, on or after January 1, 2013, and on or before January 5, 2013, accepted a contribution or a commitment to make a contribution, shall be deemed to have accepted the contribution or commitment on December 31, 2012.

(e) A person who, on or after January 1, 2015, and on or before January 3, 2015, made or committed to make a contribution to a candidate for an office having a term of 2 years or more, the last preceding general election for which was in 2014, shall be deemed to have made or committed to make the contribution on December 31, 2014.

(f) A candidate for an office described in paragraph (e) who, on or after January 1, 2015, and on or before January 3, 2015, accepted a contribution or a commitment to make a contribution, shall be deemed to have accepted the contribution or commitment on December 31, 2014.

2. For the purposes of NRS 294A.287, as affected by section 2 of this act:

(a) A person who, on or after January 1, 2011, and on or before January 8, 2011, made or committed to make a contribution to the legal defense fund of a candidate for an office having a term of 6 years or a public officer who held such an office, the last preceding



1 general election for which was in 2010, shall be deemed to have
2 made or committed to make the contribution on December 31, 2010.

3 (b) A candidate for an office or a public officer who held an
4 office described in paragraph (a), the last preceding general election
5 for which was in 2010, and who accepted a contribution or a
6 commitment to make a contribution to his or her legal defense fund
7 on or after January 1, 2011, and on or before January 8, 2011, shall
8 be deemed to have accepted the contribution or commitment on
9 December 31, 2010.

10 (c) A person who, on or after January 1, 2013, and on or before
11 January 5, 2013, made or committed to make a contribution to the
12 legal defense fund of a candidate for an office having a term of 4
13 years or more or a public officer who held such an office, the
14 last preceding general election for which was in 2012, shall be
15 deemed to have made or committed to make the contribution on
16 December 31, 2012.

17 (d) A candidate for an office or a public officer who held an
18 office described in paragraph (c), the last preceding general election
19 for which was in 2012, and who accepted a contribution or a
20 commitment to make a contribution to his or her legal defense fund
21 on or after January 1, 2013, and on or before January 5, 2013, shall
22 be deemed to have accepted the contribution or commitment on
23 December 31, 2012.

24 (e) A person who, on or after January 1, 2015, and on or before
25 January 3, 2015, made or committed to make a contribution to the
26 legal defense fund of a candidate for an office having a term of 2
27 years or more or a public officer who held such an office, the
28 last preceding general election for which was in 2014, shall be
29 deemed to have made or committed to make the contribution on
30 December 31, 2014.

31 (f) A candidate for an office or a public officer who held an
32 office described in paragraph (e), the last preceding general election
33 for which was in 2014, and who accepted a contribution or a
34 commitment to make a contribution to his or her legal defense fund
35 on or after January 1, 2015, and on or before January 3, 2015, shall
36 be deemed to have accepted the contribution or commitment on
37 December 31, 2014.

38 3. Nothing in this section authorizes a person to make a
39 contribution or commitment to make a contribution, or a candidate
40 or public officer to accept a contribution or commitment to make a
41 contribution, in excess of the limits set forth in NRS 294A.100 or
42 294A.287.

43 **Sec. 5.** This act becomes effective on July 1, 2015.

