

Amendment No. 512

Senate Amendment to Senate Bill No. 491	(BDR 24-491)
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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

HAC/BJE



Date: 4/23/2017

S.B. No. 491—Makes various changes relating to mechanical voting systems and mechanical recording devices. (BDR 24-491)



SENATE BILL NO. 491—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

MARCH 27, 2017

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to mechanical voting systems and mechanical recording devices. (BDR 24-491)

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; **prohibiting the use of mechanical voting systems and mechanical recording devices unless the systems or devices are approved by the Secretary of State;** authorizing the Secretary of State and certain counties to enter into an agreement for the lease of **approved** mechanical voting systems and mechanical recording devices without an option to purchase such systems or devices; making various other changes relating to mechanical voting systems and mechanical recording devices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a board of county commissioners or a governing body of a city to purchase and adopt for use at elections any mechanical voting system and mechanical recording device if the system or device is approved by the Secretary of State. (NRS 293B.105) Section 1.3 of this bill provides that no mechanical voting system or mechanical voting device may be purchased or leased in or used in any election of this State unless the system or device is approved by the Secretary of State. Section 1.9 of this bill makes a conforming change.

Existing law authorizes a board of county commissioners to: (1) purchase mechanical voting systems and mechanical recording devices; or (2) lease mechanical voting systems and mechanical recording devices from the Secretary of State with an option for the county to purchase such systems and devices. (NRS 293B.104, 293B.124) ~~Section 1.6~~ **Section 1.6** of this bill provides an additional option for counties whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) by authorizing the board of county commissioners of such a county to lease **approved** mechanical voting systems and mechanical recording devices from the Secretary of State without the option to purchase. **Sections 2-7** of this bill make conforming changes.

Existing law provides that if the Secretary of State leases mechanical voting systems and mechanical recording devices to a county, the rental payments from such lease are deposited in the State General Fund. ~~Sections 1.6, 5 and 6~~ **Sections 1.6, 5 and 6** provide that the rental payments must be: (1) deposited into a separate account in the State General Fund; and (2) used to pay the costs of replacing aging and outdated mechanical voting systems and mechanical recording devices.

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

1 **Section 1.** Chapter 293B of NRS is hereby amended by adding thereto ~~the~~
2 ~~new section to read as follows:~~ the provisions set forth as sections 1.3 and 1.6 of
3 this act.

4 Sec. 1.3. 1. No mechanical voting system or mechanical recording device
5 may be purchased or leased in or used in any election of this State unless the
6 system or device is approved by the Secretary of State.

7 2. A person who owns or has an interest in a mechanical voting system or
8 mechanical recording device may submit an application to the Secretary of State
9 to have the system or device examined for approval for use during the elections of
10 this State. The Secretary of State shall approve or disapprove the use of such a
11 system or device not later than 120 days after the application is submitted.

12 3. As a condition to approval, the person shall have the mechanical voting
13 system or mechanical recording device independently examined by a person
14 approved by the Secretary of State. The examiner shall:

15 (a) Review and analyze any electronic or computerized features of the system
16 or device; and

17 (b) Prepare and submit to the Secretary of State a report of the results of the
18 examination which includes a statement of the opinion of the examiner regarding
19 the feasibility of using such a system or device during the elections of this State,
20 with consideration for the safe and proper operation of the system or device
21 under the conditions prescribed by the applicable election laws.

22 4. Any cost for the independent examination of a mechanical voting system
23 or mechanical recording device conducted pursuant to subsection 3 must be paid
24 by the person who submits an application to have the system or device approved
25 by the Secretary of State.

26 5. The Secretary of State shall approve a mechanical voting system or
27 mechanical recording device for use during the elections of this State if:

28 (a) The report prepared pursuant to subsection 3 states that the system or
29 device can be used safely and properly in this State; and

30 (b) The Secretary of State determines after independently examining the
31 system or device that it can be used safely and properly in this State.

32 6. Before a city or county may change or improve a mechanical voting
33 system or mechanical recording device that has been approved by the Secretary of
34 State pursuant to this section, the city or county must obtain approval from the
35 Secretary of State. If any such change or improvement does not comply with the
36 requirements of this section, the Secretary of State shall not approve the use or
37 sale of any system or device that incorporates the change or improvement in this
38 State.

39 7. The Secretary of State may reexamine a mechanical voting system or
40 mechanical recording device or any part thereof at any time for the purpose of
41 approving a change or improvement pursuant to subsection 6 or to ensure that
42 the system or device continues to comply with the election laws of this State.

43 8. The Secretary of State and any examiner of a mechanical voting system
44 or mechanical recording device must not have any pecuniary interest in the
45 system or device examined.

46 9. The Secretary of State may establish regulations to carry out the
47 provisions of this section.

1 *Sec. 1.6. 1. The Secretary of State and a county whose population is less*
2 *than 100,000 may enter into a written agreement for the lease of mechanical*
3 *voting systems and mechanical recording devices, without an option for the*
4 *county to purchase such systems and devices. Each agreement must provide in*
5 *substance that:*

6 *(a) The systems or devices particularly described in the agreement are leased*
7 *by the State, as lessor, to the county, as lessee, for a term of 2 years from the date*
8 *of the agreement, with an exclusive option in the lessee to extend the term for like*
9 *periods of 2 years at a time.*

10 *(b) The lessee will maintain and insure the systems and devices for the*
11 *original term and each succeeding agreed term.*

12 *(c) The aggregate of rental payments for a term of 2 years under the lease*
13 *does not exceed 10 percent of the purchase price of the systems and devices*
14 *described in the agreement.*

15 *2. All rental payments received under all such agreements entered into*
16 *pursuant to this section must be deposited into a separate account in the State*
17 *General Fund to be used to pay the costs of replacing aging and outdated*
18 *mechanical voting systems and mechanical recording devices.*

19 *Sec. 1.9. NRS 293B.105 is hereby amended to read as follows:*

20 293B.105 ~~1-1~~ The board of county commissioners of any county or the city
21 council or other governing body of any city may purchase and adopt for use at
22 elections any mechanical voting system and mechanical recording device ~~if the~~
23 ~~system or device is:~~

24 ~~(a) Approved by the Secretary of State pursuant to subsection 2; or~~

25 ~~(b) Specifically authorized by law.~~

26 ~~1-1~~ The system or device may be used at any or all elections held in the county or
27 city, for voting, registering and counting votes cast.

28 ~~1-2. A person who owns or has an interest in a mechanical voting system or~~
29 ~~mechanical recording device may submit an application to the Secretary of State to~~
30 ~~have the system or device examined for approval for use during the elections of this~~
31 ~~State. The Secretary of State shall approve or disapprove the use of such a system~~
32 ~~or device not later than 120 days after the application is submitted.~~

33 ~~3. As a condition to approval, the person shall have the system or device~~
34 ~~independently examined by a person approved by the Secretary of State. The~~
35 ~~examiner shall:~~

36 ~~(a) Review and analyze any electronic or computerized features of the system~~
37 ~~or device; and~~

38 ~~(b) Prepare a report of the results of the examination for the Secretary of State~~
39 ~~which includes a statement of the examiner's opinion regarding the feasibility of~~
40 ~~using such a system or device during the elections of this State with consideration~~
41 ~~for the safe and proper operation of the system or device under the conditions~~
42 ~~prescribed by the applicable election laws.~~

43 ~~4. Any cost for the independent examination of a system or device must be~~
44 ~~paid by the person who submits an application to have the system or device~~
45 ~~approved by the Secretary of State.~~

46 ~~5. The Secretary of State shall approve a mechanical voting system or~~
47 ~~mechanical recording device for use during the elections of this State if:~~

48 ~~(a) The report prepared pursuant to subsection 3 states that the system or~~
49 ~~device can be used safely and properly in this State; and~~

50 ~~(b) The Secretary of State determines after independently examining the~~
51 ~~system or device that it can be used safely and properly in this State.~~

52 ~~6. Before a city or county may change or improve a system or device that has~~
53 ~~been approved by the Secretary of State, it must obtain approval from the Secretary~~

of State. If any change or improvement does not comply with the requirements of this section, the Secretary of State shall not approve the use or sale of any system or device that incorporates the change or improvement in this State.

~~7. The Secretary of State may reexamine a system or device or any part thereof at any time for the purpose of approving a change or improvement or to ensure that the system or device continues to comply with the election laws of this State.~~

~~8. The Secretary of State and any examiner of a system or device must not have any pecuniary interest in the system or device examined.~~

~~9. The Secretary of State may establish regulations to carry out the provisions of this section.~~

Sec. 2. NRS 293B.110 is hereby amended to read as follows:

293B.110 A mechanical voting system *or mechanical recording device* may be adopted for some of the precincts or districts in the same county or city, while the remainder of the precincts or districts in that county or city may be furnished with paper ballots or any other mechanical voting system ~~or~~ *or mechanical recording device*.

Sec. 3. NRS 293B.115 is hereby amended to read as follows:

293B.115 The board of county commissioners, city council or other governing body which adopts a mechanical voting system ~~or~~ *or mechanical recording device* as soon as practicable after adopting it, shall provide for each polling place one or more *mechanical voting systems or* mechanical recording devices in complete working order. When the *systems and* devices are not in use at an election, the board, council or governing body shall take custody of them and of the furniture and equipment of the polling place.

Sec. 4. NRS 293B.120 is hereby amended to read as follows:

293B.120 The board of county commissioners of any county or the city council or other governing body of any city, without formally adopting a mechanical voting system *or mechanical recording device* which it might lawfully adopt, may provide for its experimental use at an election in one or more precincts. Its use at the election is as valid for all purposes as if it were lawfully adopted.

Sec. 5. NRS 293B.122 is hereby amended to read as follows:

293B.122 1. The Secretary of State may purchase *mechanical voting systems and* mechanical recording devices and ~~and, giving priority to those counties still using paper ballots,~~ lease them to ~~counties, giving priority to those counties still using paper ballots~~ :

(a) *A county whose population is 100,000 or more pursuant to the provisions of NRS 293B.124.*

(b) *A county whose population is less than 100,000 pursuant to the provisions of NRS 293B.124 or section ~~or~~ 1.6 of this act.*

2. The Secretary of State may pay for such *systems and* devices purchased pursuant to subsection 1 out of any money ~~specifically~~ :

(a) *Specifically* appropriated for that purpose by the Legislature ~~or~~ ; *or*

(b) *In an account established pursuant to NRS 293B.124 or section ~~or~~ 1.6 of this act.*

Sec. 6. NRS 293B.124 is hereby amended to read as follows:

293B.124 1. ~~The~~ *If a county wants to lease from the Secretary of State mechanical voting systems or mechanical recording devices ~~from~~ which have been approved pursuant to section 1.3 of this act by the* Secretary of State, ~~with the option to purchase such system or devices,~~ *the Secretary of State and ~~each participating~~ the county shall enter a written agreement designated as "Lease of Equipment with Option to Purchase." Each agreement must provide in substance:*

1 (a) That the systems *and devices* particularly described in the agreement are
2 leased by the State, as lessor, to the county, as lessee, for a term of 2 years from the
3 date of the agreement, with an exclusive option in the lessee to extend the term for
4 like periods of 2 years at a time, for an agreed maximum term not exceeding 20
5 years after the date of the agreement.

6 (b) That the lessee will maintain and insure the systems *and devices* for the
7 original term and each succeeding agreed term.

8 (c) That the aggregate of rental payments provided for under the maximum
9 term of the lease agreement must equal the aggregate of the purchase price of the
10 *mechanical voting systems and* mechanical recording devices covered by the
11 agreement, together with all interest, shipping, installation and other costs paid or
12 agreed to be paid by the State. Upon payment of the latter aggregate sum by any
13 lessee to the State, the State shall forthwith convey to that lessee legal title to the
14 systems *and devices* covered by the paid agreement.

15 2. ~~[[The Secretary of State shall promptly transmit all]]~~ All rental payments
16 received under all such agreements ~~[[to]]~~ *entered into pursuant to this section must*
17 *be deposited into a separate account in the State General Fund [[to be used to*
18 *replace aging and outdated mechanical voting systems and mechanical recording*
19 *devices.*

20 Sec. 7. NRS 293B.125 is hereby amended to read as follows:

21 293B.125 1. ~~[[he]]~~ *If a county or city purchases a mechanical voting*
22 *system or mechanical recording device, the* cost of ~~[[a mechanical voting system]]~~
23 *such purchase* is a charge upon the county or city. ~~[[adopting it.]]~~

24 2. The board of county commissioners or city council or other governing
25 body of any city may provide for the payment of the costs of such ~~[[a voting system]]~~
26 *systems and devices* in such manner and by such method as they consider in the
27 best local interests, and also may for that purpose issue bonds, certificates of
28 indebtedness, or other obligations which are a charge on the county or city. The
29 bonds, certificates or other obligations may be issued with or without interest,
30 payable at such time as the authorities may determine, but may not be issued or sold
31 at less than par.

32 Sec. 8. This act becomes effective upon passage and approval.