

ASSEMBLY BILL NO. 394—COMMITTEE ON  
LEGISLATIVE OPERATIONS AND ELECTIONS

MARCH 23, 2023

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing elections.  
(BDR 24-776)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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; requiring the Secretary of State to adopt regulations that prescribe the procedure to be used if the abstract or certification of results for any election is not timely prepared or transmitted; prohibiting, with certain exceptions, the counting of ballots more than once; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires: (1) the canvass for an election to be completed by the board of county commissioners or the governing body of a city, as applicable; and (2) an abstract of the result to be prepared, certified and transmitted to the Secretary of State on or before the 10th day following the election. (NRS 293.387, 293.393, 293.395, 293C.387) **Section 1** of this bill requires the Secretary of State to adopt by regulation a procedure to be used if the abstract or certification of results for any election is not timely prepared or transmitted.

Existing law sets forth the processes for a counting board to prepare and count ballots. (NRS 293.363, 293C.362) **Sections 2 and 3** of this bill provide that, except as otherwise required during an audit or recount, the counting of ballots may be performed only once.

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, presidential preference 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. Permanent regulations of the Secretary of State that regulate the conduct of a presidential preference primary election and are effective on or before the last business day of September immediately preceding a presidential preference primary election govern the conduct of that election.

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

3. The regulations must prescribe:

(a) The manner of printing ballots and the number of ballots to be distributed to precincts and districts;

(b) The form and placement of instructions to voters;

(c) The disposition of election returns;

(d) 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;

(e) 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;

(f) The procedures to be used to ensure the security and accuracy of computer programs and tapes used for elections;

(g) 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;

(h) The acceptable standards for the sending and receiving of applications, forms and ballots, by approved electronic transmission, by the county clerks and the electors, registered voters or other persons who are authorized to use approved electronic transmission pursuant to the provisions of this title;

(i) The forms for applications to preregister and register to vote and any other forms necessary for the administration of this title;

~~and~~

*(j) The procedure to be used if the abstract or certification of results for any election is not timely prepared or transmitted as required pursuant to the provisions of this title; and*



(k) 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 statutes and regulations governing the conduct of primary, presidential preference 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 293.363 is hereby amended to read as follows:

293.363 1. When the polls are closed, the counting board shall prepare to count the ballots voted. The counting procedure must be public and continue without adjournment until completed.

2. If the ballots are paper ballots, the counting board shall prepare in the following manner:

(a) The container that holds the ballots or the ballot box must be opened and the ballots contained therein counted by the counting board and opened far enough to ascertain whether each ballot is single. If two or more ballots are found folded together to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed. If a majority of the inspectors are of the opinion that the ballots folded together were voted by one person, the ballots must be rejected and placed in an envelope, upon which must be written the reason for their rejection. The envelope must be signed by the counting board officers and placed in the container or ballot box after the count is completed.

(b) If the ballots in the container or box are found to exceed in number the number of names as are indicated on the roster as having voted, the ballots must be replaced in the container or box, and a counting board officer, with his or her back turned to the container or box, shall draw out a number of ballots equal to the excess. The excess ballots must be marked on the back thereof with the words "Excess ballots not counted." The ballots when so marked must be immediately sealed in an envelope and returned to the county clerk with the other ballots rejected for any cause.

(c) When it has been ascertained that the number of ballots agrees with the number of names of registered voters shown to have voted, the board shall proceed to count. If there is a discrepancy



1 between the number of ballots and the number of voters, a record of  
2 the discrepancy must be made.

3 **3. Except as otherwise required during an audit or recount,**  
4 **the counting of ballots may be performed only once.**

5 **Sec. 3.** NRS 293C.362 is hereby amended to read as follows:

6 293C.362 1. When the polls are closed, the counting board  
7 shall prepare to count the ballots voted. The counting procedure  
8 must be public and continue without adjournment until completed.

9 2. If the ballots are paper ballots, the counting board shall  
10 prepare in the following manner:

11 (a) The container that holds the ballots or the ballot box must be  
12 opened and the ballots contained therein counted by the counting  
13 board and opened far enough to determine whether each ballot is  
14 single. If two or more ballots are found folded together to present  
15 the appearance of a single ballot, they must be laid aside until the  
16 count of the ballots is completed. If a majority of the inspectors are  
17 of the opinion that the ballots folded together were voted by one  
18 person, the ballots must be rejected and placed in an envelope, upon  
19 which must be written the reason for their rejection. The envelope  
20 must be signed by the counting board officers and placed in the  
21 container or ballot box after the count is completed.

22 (b) If the ballots in the container or box are found to exceed the  
23 number of names as are indicated on the roster as having voted, the  
24 ballots must be replaced in the container or box and a counting  
25 board officer shall, with his or her back turned to the container or  
26 box, draw out a number of ballots equal to the excess. The excess  
27 ballots must be marked on the back thereof with the words "Excess  
28 ballots not counted." The ballots when so marked must be  
29 immediately sealed in an envelope and returned to the city clerk  
30 with the other ballots rejected for any cause.

31 (c) When it has been determined that the number of ballots  
32 agrees with the number of names of registered voters shown to have  
33 voted, the board shall proceed to count. If there is a discrepancy  
34 between the number of ballots and the number of voters, a record of  
35 the discrepancy must be made.

36 **3. Except as otherwise required during an audit or recount,**  
37 **the counting of ballots may be performed only once.**

38 **Sec. 4.** 1. This section becomes effective upon passage and  
39 approval.

40 2. Sections 1, 2 and 3 of this act become effective:

41 (a) Upon passage and approval for the purpose of adopting any  
42 regulations and performing any other preparatory administrative  
43 tasks that are necessary to carry out the provisions of this act; and



1 (b) On January 1, 2024, for all other purposes.

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