ASSEMBLY BILL NO. 287–ASSEMBLYMEMBERS GONZÁLEZ AND MONROE-MORENO

FEBRUARY 25, 2025

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to elections. (BDR 24-202)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 1-3, 5)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; revising the circumstances under which a candidate defeated at certain elections may demand a recount; requiring, under certain circumstances, that a recount for certain elections be conducted; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes, under certain circumstances, a candidate defeated at certain elections to demand and receive a recount of the vote for the office for which he or she is a candidate if he or she deposits the estimated costs for the recount. (NRS 293.403) **Section 1** of this bill instead: (1) authorizes a defeated candidate to demand a recount in certain elections if the difference between the highest number of votes cast for a candidate for the office and the number of votes cast for the defeated candidate who demands the recount is 5 percent or less; and (2) reorganizes the provisions of existing law that set forth how the estimated costs of the recount are determined. **Section 1** additionally requires, with certain exceptions, a recount of the vote for an office to be conducted, at no cost to any candidate, if the difference between the highest number of votes cast for a candidate for the office and the next highest number of votes cast for a candidate for the office is 0.25 percent or less. Such a recount is not required to be conducted if the format of the ballot allowed a voter to select more than one candidate for the office, unless the difference between the number of votes cast in the election for the candidate with the lowest number of votes who won the election and the next highest number of votes cast for a candidate for the office is 0.25 percent or less.

Existing law authorizes a voter at an election to demand and receive a recount of the vote for a ballot question if the registered voter deposits the estimated costs of the recount. (NRS 293.403) **Section 1**: (1) eliminates the authority of a voter to

demand and receive a recount of the vote for a ballot question; and (2) provides instead that a recount of the vote for a ballot question must be conducted if the difference between the results of the ballot question being approved or disapproved is 0.25 percent or less. **Section 1** further provides that no voter is required to pay the costs of such a recount.

Sections 2-5 of this bill make conforming changes to account for the changes to the recount process made pursuant to **section 1**.

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

Section 1. NRS 293.403 is hereby amended to read as follows:

293.403 1. Except as otherwise provided in NRS 293.424, a candidate defeated at any election may demand and receive a recount of the vote for the office for which he or she is a candidate to determine the number of votes received for the ***defeated*** candidate and the number of votes received for the person who won the election if ~~[, within]~~ ***the difference between the highest number of votes cast for a candidate for the office and the number of votes cast for the defeated candidate who demands the recount is 5 percent or less. To demand such a recount, within*** 3 working days after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes, the ***defeated*** candidate who demands the recount ~~[:]~~ ***must:***

(a) ~~[Files]~~ ***File*** in writing a demand with the officer with whom the ***defeated*** candidate filed his or her declaration of candidacy; and

(b) ~~[Deposits]~~ ***Deposit*** in advance the estimated costs of the recount with that officer. ***The estimated costs of the recount must be determined by the person with whom the advance is deposited based on regulations adopted by the Secretary of State defining the term "costs."***

2. ~~[Any voter at an election may demand and receive]~~ ***Except as otherwise provided in this subsection and NRS 293.424,*** a ***recount of the vote for an office must be conducted if, after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes, the difference between the highest number of votes cast for a candidate for the office and the next highest number of votes cast for a candidate for the office is 0.25 percent or less. A recount of the votes for an office is not required pursuant to this subsection if the format of the ballot allowed a voter to select more than one candidate for the office, unless the difference between the number of votes cast in the election for the candidate with the lowest number of votes who won the election and the next highest number of votes cast for a candidate for the***

office is 0.25 percent or less. No candidate is required to pay the costs of a recount that is required pursuant to this subsection.

3. A recount of the vote for a ballot question ***must be conducted*** if, ~~[within 3 working days]~~ after the canvass of the vote and the certification by the county clerk or city clerk of the abstract of votes, the ~~[voter:~~

~~(a) Files in writing a demand with:~~

~~(1) The Secretary of State, if the demand is for a recount of a ballot question affecting more than one county; or~~

~~(2) The county or city clerk who will conduct the recount, if the demand is for a recount of a ballot question affecting only one county or city; and~~

~~(b) Deposits in advance the estimated costs of the recount with the person to whom the demand was made.~~

~~3. The estimated costs of the recount must be determined by the person with whom the advance is deposited based on regulations adopted by the Secretary of State defining the term "costs."]~~ ***difference between the results of the ballot question being approved or disapproved is 0.25 percent or less. No voter is required to pay the costs of a recount that is required pursuant to this subsection.***

4. As used in this section, "canvass" means:

(a) In any primary election, the canvass by the board of county commissioners of the returns for a candidate or ballot question voted for in one county or the canvass by the board of county commissioners last completing its canvass of the returns for a candidate or ballot question voted for in more than one county.

(b) In any primary city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

(c) In any general election:

(1) The canvass by the Supreme Court of the returns for a candidate for a statewide office or a statewide ballot question; or

(2) The canvass of the board of county commissioners of the returns for any other candidate or ballot question, as provided in paragraph (a).

(d) In any general city election, the canvass by the city council of the returns for a candidate or ballot question voted for in the city.

Sec. 2. NRS 293.404 is hereby amended to read as follows:

293.404 1. Where a recount is demanded ***or required*** pursuant to the provisions of NRS 293.403 or ***demanded pursuant to*** 293.424, the:

(a) County clerk of each county affected by the recount shall employ a recount board to conduct the recount in the county, and shall act as chair of the recount board unless the recount is for the office of county clerk, in which case the registrar of voters of the

county, if a registrar of voters has been appointed for the county, shall act as chair of the recount board. If a registrar of voters has not been appointed for the county, the chair of the board of county commissioners, if the chair is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of county clerk, a registrar of voters has not been appointed for the county and the chair of the board of county commissioners is a candidate on the ballot, the chair of the board of county commissioners shall appoint another member of the board of county commissioners who is not a candidate on the ballot to act as chair of the recount board. A member of the board of county commissioners who is a candidate on the ballot may not serve as a member of the recount board.

(b) City clerk shall employ a recount board to conduct the recount in the city, and shall act as chair of the recount board unless the recount is for the office of city clerk, in which case the mayor of the city, if the mayor is not a candidate on the ballot, shall act as chair of the recount board. If the recount is for the office of city clerk and the mayor of the city is a candidate on the ballot, the mayor of the city shall appoint another member of the city council who is not a candidate on the ballot to act as chair of the recount board. A member of the city council who is a candidate on the ballot may not serve as a member of the recount board.

2. Each candidate for the office affected by the recount ~~[and the voter who demanded the recount, if any,]~~ may be present in person or by an authorized representative, but may not be a member of the recount board.

3. The recount must include a count and inspection of all ballots, including rejected ballots, and must determine whether all ballots are marked as required by law. All ballots must be recounted in the same manner in which the ballots were originally tabulated.

4. The county or city clerk shall unseal and give to the recount board all ballots to be counted.

5. The Secretary of State may adopt regulations to carry out the provisions of this section.

Sec. 3. NRS 293.405 is hereby amended to read as follows:

293.405 1. If ~~[the person]~~ ***a candidate*** who demanded ~~[the]~~ ***a*** recount ***pursuant to subsection 1 of NRS 293.403 or subsection 1 of NRS 293.424*** does not prevail, and it is found that the sum deposited was less than the cost of the recount, the ~~[person]~~ ***candidate*** shall, upon demand, pay the deficiency to the county clerk, city clerk or Secretary of State, as the case may be. If the sum deposited is in excess of the cost, the excess must be refunded to the ~~[person.]~~ ***candidate.***

2. If the ~~[person]~~ ***candidate*** who demanded the recount prevails, the sum deposited with the Secretary of State, county clerk or city clerk must be refunded to the ~~[person]~~ ***candidate*** and the cost of the recount must be paid as follows:

(a) If the recount concerns an office ~~[or ballot question]~~ for which voting is not statewide, the cost must be borne by the county or city which conducted the recount.

(b) If the recount concerns an office ~~[or ballot question]~~ for which voting is statewide, the clerk of each county shall submit a statement of its costs in the recount to the Secretary of State for review and approval. The Secretary of State shall submit the statements to the State Board of Examiners, which shall repay the allowable costs from the Reserve for Statutory Contingency Account to the respective counties.

3. Except as otherwise provided in NRS 293.424, each recount must be commenced within 5 days after ~~[demand.]~~ ***the recount is demanded or required pursuant to NRS 293.403*** and must be completed within 5 days after it is begun.

4. After the recount of a precinct is completed, that precinct must not be subject to another recount for the same office or ballot question at the same election.

Sec. 4. NRS 293.413 is hereby amended to read as follows:

293.413 1. Except as otherwise provided in NRS 293.424, the statement of contest provided for in NRS 293.407 shall be filed with the clerk of the district court no later than 5 days after a recount is completed, and no later than 14 days after the election if no recount is demanded ~~[.]~~ ***or required.*** The parties to a contest shall be denominated contestant and defendant.

2. Except as otherwise provided in NRS 293.424, the court shall set the matter for hearing not less than 5 days nor more than 10 days after the filing of the statement of contest. Election contests shall take precedence over all regular business of the court in order that results of elections shall be determined as soon as practicable.

3. The court may refer the contest to a special master in the manner provided by the Nevada Rules of Civil Procedure, and such special master shall have all powers necessary for a proper determination of the contest.

Sec. 5. NRS 293B.400 is hereby amended to read as follows:

293B.400 1. Except as otherwise provided in this section, if a recount is demanded ***or required*** pursuant to the provisions of NRS 293.403 or ***demanded pursuant to NRS*** 293.424 or if an election is contested pursuant to NRS 293.407 or 293.424, the county or city clerk shall ensure that each mechanical recording device which directly recorded votes electronically for the applicable election

provides a record printed on paper of each ballot voted on that device.

2. In carrying out the requirements of this section, the county or city clerk shall:

(a) Print only the records required for the recount or contest; and

(b) Collect those records and deposit them in the vaults of the county or city clerk pursuant to NRS 293.391 or 293C.390.

Sec. 6. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

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