

LCB File No. R183-01
PROPOSED REGULATION OF THE
SECRETARY OF STATE

November 30, 2001

EXPLANATION – matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§ 1, 2, 3, 4, 5, 6, 7, 9 and 21 NRS 293.124 and 293.247; § 8, NRS 293B.105; §§ 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20 NRS 294A.380; § 22 NRS 306.011

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 and 2 of this regulation:

- 1. For purposes of Senate Bill 27, the front page of the sample ballot shall be the inside of the front cover of the ballot.*
- 2. All notices required by Senate Bill 27 must be on the inside front cover of the ballot.*
- 3. If providing a ballot and sample ballot in 14pt type font to all voters, the large font availability statement is not required on the sample or mail ballot.*

Sec. 2. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as section 1 of this regulation:

Alternative format for purposes of Assembly Bill 295 to include but not limited to:

- (a) Audio tapes;*
- (b) Telephone;*
- (c) TDD;*
- (d) “Bobby Approved” Internet sites; and*
- (e) Closed caption video.*

Sec. 3. NAC 293.010 is hereby amended to read as follows:

As used in this chapter, unless the context otherwise requires:

1. “Ballot stock” means the material upon which:
 - (a) A ballot is printed; and
 - (b) A voter directly indicates his vote.

2. "Department" means the department of motor vehicles. ~~[and public safety]~~
3. "Voting booth" means any place or compartment used to screen a voter from the observation of others.

Sec. 4. NAC 293.120 is hereby amended to read as follows:

The county clerk shall:

1. Mail a copy of the sample ballot for the primary election, *as provided in NRS 293.565*, to each candidate who has filed with him a declaration of candidacy or an acceptance of candidacy. The copy must be mailed to the mailing address which is stated in the declaration of candidacy or acceptance of candidacy.
2. Mail a copy of the sample ballot for the primary election, *as provided in NRS 293.565*, to each candidate who has been certified to him by the secretary of state.
3. If a candidate's name appears on more than one type of sample ballot, mail a copy of at least one of the sample ballots to the candidate, but the county clerk shall make a copy of each sample ballot available to the candidate upon request.
4. Mail a copy of each sample ballot for a primary election, *as provided in NRS 293.565*, to the secretary of state.
5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in his office.

Sec. 5. NAC 293.164 is hereby amended to read as follows:

1. In addition to the requirements set forth in paragraph (a) of subsection 1 of NRS 293.3095, the form to request an absent ballot must:
 - (a) Be 8 ½ inches by 5 ½ inches in size;
 - (b) Include a line for:
 - (1) The name of the registered voter requesting the absent ballot;
 - (2) The signature of the registered voter requesting the absent ballot;
 - (3) A tracking number that consists of the:
 - (I) Control number of the application to register to vote assigned to the application by the secretary of state pursuant to NAC 420; or
 - (II) Voter registration number that is generated by computer and assigned by the county clerk in a county where a computer is used to register voters;

(c) ~~Include a notice that sets forth the provisions of subsection 2; and~~

(e) Include the name and address of the county clerk of the county where the registered voter who requests the ballot resides.

2. A registered voter who receives an absent ballot may ~~not~~ *only* vote at a polling place ~~unless~~ *if*:

1. he surrenders the absent ballot to the county clerk or his designee; or

2. he provides identification and signs an affirmation proclaiming he has not yet voted.

Sec. 6. NAC 293.167 is hereby amended to read as follows:

1. A registered voter of this state who resides outside the continental United States and who uses a facsimile machine to request an absent ballot must request the absent ballot from the appropriate county clerk before 5 p.m. on the Tuesday preceding the election in which he wishes to vote.

2. A county clerk shall use the electronic transmission network that is available through the Voting Assistance Program of the United States Department of Defense to send an absent ballot to a registered voter who requests a ballot in accordance with subsection 1.

3. After receipt of a request for an absent ballot, the county clerk shall confirm that the person requesting the absent ballot is a registered voter in his county. If the person is a registered voter, the county clerk shall:

(a) Use a facsimile machine to send the absent voter a sample ballot, ballot card and a cover sheet;

(b) Record the number of the ballot card, the name of the absent voter, his precinct or district, and his political affiliation, if any, in the roster for absent ballots;

(c) Record the destination of the ballot and the date that the ballot was sent; and

(d) Maintain the original ballot card in a secured area where access is allowed only with the approval of the county clerk.

4. The cover sheet must:

(a) Contain instructions for marking the ballot;

(b) Contain instructions for returning the ballot;

(c) Instruct the voter to read and sign the statement required pursuant to subsection 5 and to sign the back of the mailing envelope;

(d) Contain a statement that failure to sign the back of the mailing envelope will result in the ballot not being counted.

5. The absent voter must sign and return with his ballot a statement in substantially the following form:

I understand that I am receiving this ballot via facsimile machine and that I must return it by mail *or facsimile* to the county clerk or registrar of voters by 7 p.m. on the day of the election. I understand that my marked ballot will be duplicated onto a ballot card so that it can be counted by a computer and that this duplication could violate the secrecy of my ballot. I therefore swear or affirm that I am waiving the secrecy of my ballot.

6. The absent ballot must be received by the office of the county clerk by 7 p.m. on the day of the election. An absent ballot received after 7 p.m. must not be counted. ~~[An absent ballot that is returned to the county clerk by facsimile machine must not be counted.]~~ The county clerk shall place each rejected absent ballot in a separate envelope and note on the outside of the envelope the appropriate number of the precinct and the reason for the rejection of the ballot.

7. When an absent ballot is returned by mail *or facsimile*, the county clerk shall make a record in the absent ballot record book. The county clerk shall check the signature on the return envelope against the original signature of the voter on his application to register to vote. Each county clerk shall establish a procedure for duplicating absent ballots received pursuant to this section that must be approved by the secretary of state before it is used by the county clerk.

~~[8. The county clerk shall place each absent ballot in a separate envelope and record on the outside of the envelope the precinct number of the voter and that the ballot contained therein is an absent ballot sent to the voter by facsimile machine.]~~

Sec. 7. NAC 293.182 is hereby amended to read as follows:

1. *Petition documents submitted to county clerks for signature verification must be sequentially numbered starting with the number one for each county.*

2. If a petition consists of more than one document ~~[each of those documents must,]~~ *each page of the document must be sequentially numbered and* in addition to any other requirements:

(a) Contain sequentially numbered spaces for:

- (1) The name of each person signing the petition;
- (2) The signature of the person;
- (3) The residential address of the person;
- (4) The name of the county where the person is a registered voter; and
- (5) The date of the signature

(b) Have attached to it, *in addition to the affidavit of the document signer required by the constitution* when filed, an affidavit signed by the person who circulated the document in substantially the following form:

STATE OF NEVADA

COUNTY OF _____

I, _____, (print name); being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that I believe them to be genuine signatures; and (6) that I believe each person who signed was at the time of signing a registered voter in the county of his residence.

Signature of circulator

Subscribed and sworn to or affirmed
before me this _____ day of _____, _____.

Notary public or other person licensed
to administer an oath

3. Any document of a petition may consist of more than one **[sheet] page**. If a document consists of more than one **[sheet] page**:

(a) Each **[sheet] page, including blank signature pages**, must be numbered sequentially, *starting with the number one for each document;*

(b) All the sheets ~~[pages]~~ must be permanently attached in numerical order; and

(c) The affidavit required by paragraph (b) of subsection 1 must appear on the last ~~[sheet]~~ *page* of the document.

4. As used in this section, “petition” means a petition containing signatures which are required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 298.109, 306.035 or 306.110.

Sec. 8. NAC 293.250 is hereby amended to read as follows:

1. If a difference exists between the number of persons voting and the number of ballots cast, the difference must be reported in writing to the county clerk, together with any known reasons for the difference.

2. The total number of voters must be entered by the election board on the forms provided by the county clerk.

3. The chairman of an election board is responsible for the safe delivery of the ballot cards to the central place designated by the county clerk for the counting of ballots, except that a ballot pick-up board, if established, is responsible for the delivery.

4. After closing the polls, the election board shall compare the quantity of its supplies which were furnished by the county clerk with the county clerk’s inventory and shall note any shortages. The chairman of the election board is responsible for the safe return of all supplies, including all records and equipment pertaining to the election in accordance with the directions of the county clerk.

~~[5. If any extraneous writing or other mark, such as a cross, check, tear or scratch, has been placed on a ballot card, the votes on the card must be counted unless the writing or other mark identifies the ballot as being that of the voter. Whether or not such an extraneous writing or other mark identifies the voter, the writing or other mark must not be counted as a vote.]~~

5. Votes on a ballot card must not be counted if it is impossible or extremely difficult to determine the voter’s intention because he has placed his ballot incorrectly in the vote recording device.

~~[7. If a chip on a ballot card is found in any of the following conditions, the chip must be counted as an intended vote:~~

~~—(a) A chip which is attached to the card at one or two corners.~~

~~—(b) A chip which is attached to the card at three corners with the fourth corner obviously disconnected.~~

~~—(c) A chip which is attached to the card at three or four corners with the paper fibers on one or two sides broken in a way that permits unimpeded light to be seen through the ballot. If no unimpeded light is visible on any side of a chip, the vote must not be counted.]~~

Sec. 9. NAC 293.411 is hereby amended to read as follows:

1. The secretary of state will assign to each county a series of numbers that must be used by the county clerk in assigning ~~[a-unique]~~ *an* identification number to a person who wishes to register to vote pursuant to NRS 293.507 and is unable, or does not wish, to provide the clerk with the number indicated on the identification described in subparagraph (1) of paragraph (a) of subsection 4 of NRS 293.507.

Sec. 10. NAC 293.420 is here by amended to read as follows:

1. The secretary of state will create a standard form for use by persons who are applying to register to vote by mail. The form will include:

- (a) An application to register to vote by mail;
- (b) An explanation of Nevada's laws on closed primary elections;
- (c) Instructions to assist the applicant in completing the application;
- (d) A list of the addresses and telephone numbers of county election officers;
- (e) A notice that the application must be complete before it is effective; and

(f) Instructions to the applicant to contact the county clerk if the applicant does not within 10 days after he submits the application to the county clerk receive his voter registration card indicating that his registration has been accepted.

2. The secretary of state will assign a control number to each application and will determine the sequence of the control numbers. The control numbers will consist of a two-digit alphabetical code followed by a five-digit numerical code.

3. The control number must be printed on a duplicate copy of the application ~~[marked as the]~~ *or* receipt and on the application to be returned to the county clerk.

4. Each county clerk shall, after obtaining a series of control numbers from the secretary of state, cause the forms to be printed. The county clerk shall continue to make available a sufficient number of forms to meet the needs of the residents of the county.

Sec. 11. Chapter 293B of NAC is hereby amended by adding thereto the provisions set forth as sections 1, 2 and 3 of this regulation.

1. Prior to each election, the county clerk or city clerk will ensure that:

(a) Each mechanical recording device which directly records votes electronically; and

(b) The automatic tabulating equipment and programs;

to be used in an election accurately record the votes cast for all offices and on all measures by accomplishing all tests required by NRS Chapter 293B.

2. A vote is cast on a mechanical recording device which directly records votes electronically by:

(a) the voter making a selection of his/her choice;

(b) the system gives feedback indicating the choice(s) selected;

(c) after the voter has finished making all of the choices made, the voter submits choices;

and

(d) the system indicates the vote has been cast

3. Each mechanical recording device which directly records votes electronically shall

include:

(a) instructions for casting a vote;

(b) a way for a voter to select a choice;

(c) a way for a voter to change his/her selection;

(d) visual feedback indicating the choices made for each race;

(e) an indication of contests where an under-vote is detected;

(f) over-vote protection;

(g) a confirmation page indicating how the voter voted and confirming the voter's intent to submit the ballot as it indicates;

(h) a digital image of each ballot stored by the system;

(i) a way for the voter to indicate he/she is finished with selections and is ready to submit;

and

(j) an indicator that the voter's vote has been cast.

4. The audit trail for an electronic voting system shall provide that:

(1) only ballots cast by authorized voters are included in the tally;

(2) all ballots are unmodified since the authorized voters cast them;

(3) all ballots cast are accounted for;

(4) the tabulation results are repeatable and correctly accumulated from the authorized voters' ballots

Sec. 12. NAC 293C.110 is hereby amended to read as follows:

The city clerk shall:

1. Mail a copy of the sample ballot for the primary city election, *as provided in NRS 293.565*, to each candidate.
2. Mail a copy of the sample ballot for the primary city election to each candidate who has been certified to him by the secretary of state.
3. If a candidate's name appears on more than one type of sample ballot, mail a copy of at least one of the sample ballots to the candidate, but the city clerk shall make a copy of each sample ballot available to the candidate upon request.
4. Mail a copy of each sample ballot for a primary city election to the secretary of state.
5. Post a copy of the sample ballot or a list of candidates in a conspicuous place in his office.

Sec. 13. NAC 294A.045 is hereby amended to read as follows:

1. A candidate for state, district, county, municipal, or township office who withdraws his candidacy, *or loses in a primary election* may, if he does not accept any additional campaign contributions and has no additional campaign expenses relating to that office, file all the reports of campaign contributions and expenses required by NRS 294A.120, 294A.200, and 294A.360 at the time he submits his notice of withdrawal to the appropriate filing officer.
2. *A committee for political action, ballot advocacy group, independent expenditure, political party and committee sponsored by a political party which does not make an expenditure on behalf of a candidate, group of candidates or ballot issue until the second or third reporting period pursuant to NRS 294A.120 and 294A.140 must file all prior required*

reports at that time; any penalty pursuant to NRS 294A.420 that may be assessed due to the late filing of reports 1 or 2, will be waived under those circumstances.

Sec. 14. NAC 294A.075 is hereby amended to read as follows:

The form of the report of campaign expenses required to be filed pursuant to NRS 294A.125, NRS 294A.200, 294A.210, 294A.220, 294A.280 and 294A.360 must include:

1. For each expenditure of more than \$100:
 - (a) The category of the expenditure;
 - (b) The name and address of the person who received payment for the expenditure;
 - (c) The amount and date of the payment for the expenditure.
2. ~~[The total amount spent for each category of expenditure.~~
~~—2.]~~ The total amount spent for all categories of expenditures.

Sec. 15. NAC 294A.110 is hereby amended to read as follows:

1. An amended form for registration required pursuant to subsection 3 of NRS 294A.230 must be signed by an officer of the committee for political action filing the form or the resident agent of the committee.

2. ~~[If a committee for political action ceases to engage in political activities in this state, an officer or the resident agent of the committee shall file with the secretary of state a notice that the committee is inactive]~~ *A committee for political action becomes inactive when:*

(a) The secretary of state receives a written notice from an officer or the resident agent of the committee stating the political action committee has ceased to engage in political activities in this state; or

(b) The secretary of state has received certified mail returned from the political action committee's address of record on the latest registration form on file in the secretary of state's office stating it has moved, left no address, not at this address or unknown stamped by the postal service.

Upon receipt of such a notice, the secretary of state will delete the name of the committee from each list of active committees for political action which he maintains in his office.

3. As used in this section, an “officer” or “resident agent” of a committee for political action means a person who is listed as such on the committee’s form for registration on file with the secretary of state.

Sec. 16. NAC 294A.120 is hereby amended to read as follows:

~~[The secretary of state will, within 5 working days after he]~~ *If the secretary of state* receives written notice that a candidate or public officer is alleged to have violated a provision of chapter 294A of NRS, *the secretary of state* must notify the candidate or public officer of the alleged violation by certified mail.

Sec. 17. Chapter 294A of NAC is hereby amended by adding thereto the provisions set forth as sections 14 through 18, of this regulation:

Pursuant to NRS 294A.420, the secretary of state may waive a fine imposed if:

(a) The proper contribution and expense report has been filed;

(b) The secretary of state has received a written request for waiver setting forth the basis for the waiver request; and

(c) Good cause has been established. “Good cause” shall be established when it is shown that: (1) within a reasonable time of the election, the candidate or a member of the candidate’s family, within the second degree of consanguinity, has died; (2) within a reasonable time of the election, the candidate or a member of the candidate’s family, within the second degree of consanguinity, had a serious medical condition, major medical problem, or was hospitalized; or (3) the candidate is currently experiencing extreme financial hardship.

Sec. 18. Chapter 294A of NAC is hereby amended by adding thereto the provisions set forth as section 1, of this regulation:

A statutory fine imposed pursuant to NRS 294A.420 may not be paid with campaign contribution funds.

Sec. 19. Chapter 294A of NAC is hereby amended by adding thereto the provisions set forth as section 1, of this regulation:

The use of the terms “elect” or “for” dispels the implication of incumbency as explained in NRS 294A.340.

Sec. 20. Chapter 294A of NAC is hereby amended by adding thereto the provisions set forth as section 1, of this regulation:

A candidate’s use of personal funds for campaign purposes, are contributions to their campaigns. These candidate contributions are not subject to any limits, however, they must be properly reported. Contributions from members of the candidate’s family are subject to the same limits and reporting requirements that apply to any other individual.

Sec. 21. NAC 295.020 is hereby amended to read as follows:

1. Petition documents submitted to county clerks for signature verification must be sequentially numbered starting with the number one for each county.

2. If a petition for an initiative or referendum consists of more than one document each document must contain the full text of the proposed measure and each of those documents

(a) Contain sequentially numbered spaces for:

(1) The name of each person signing the petition;

(2) The signature of the person signing

(3) The street address of the residence where the person signing actually resides, unless a street address has not been assigned. If a street address has not been assigned, the document may contain the mailing address of the person signing.

(4) The name of the county where the person who signs is a registered voter.

(5) The date of the signature.

(6) If the petition is a municipal initiative or referendum proposed pursuant to the provisions of NRS 295.195 to 295.220, inclusive, the name of the city in which the person who signs is registered to vote

(b) Have attached to it, when filed, an affidavit *in addition to the affidavit of document signer required by the constitution* signed by the person who circulated the document in substantially the following form:

STATE OF NEVADA

COUNTY OF _____

I, _____, (print name); being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that I believe them to be genuine signatures; and (6) that I believe each person who signed was at the time of signing a registered voter in the county of his residence.

Signature of circulator

Subscribed and sworn to or affirmed
before me this _____ day of _____, _____.

Notary public or other person licensed
to administer an oath

3. A document may consist of more than one **[sheet] page**. If a document consists of more than one **[sheet] page**:

(a) Each **[sheet] page, including blank signature pages**, must be numbered sequentially *starting with the number one for each document*;

(b) All the ~~sheets~~ **[pages]** must be permanently attached in numerical order; and

(c) The affidavit of the circulator required by NRS 295.095 or 295.205 must appear on the last **[sheet] page** of the document.

5. As used in this section, “petition” means a petition described in article 19 of the Nevada constitution or NRS 295.015 or 295.045.

Sec. 22. Chapter 306 of NAC is hereby amended by adding thereto the provisions set forth as section 1, of this regulation:

A County or City Clerk who receives a Notice of Intent to Recall a Public Officer shall forward a copy of the Notice of Intent to the Secretary of State within one day of receipt.