
SENATE BILL NO. 230—SENATOR HORSFORD

MARCH 21, 2005

JOINT SPONSOR: ASSEMBLYWOMAN GIUNCHIGLIANI

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to provisional ballots.
(BDR 24-1252)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; providing that a provisional ballot must be counted without regard to the polling place in which it was cast; requiring the Secretary of State to adopt regulations relating to the processing of a provisional ballot; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law allows a voter to cast a provisional ballot for a candidate for
2 federal office under certain circumstances. (NRS 293.3081)
3 This bill requires the Secretary of State to establish procedures for the
4 processing and counting of provisional ballots. The procedures must ensure that a
5 candidate or voter will have recourse after the count to demand and receive a
6 recount or to contest the election. The procedures must also include standards by
7 which a candidate, political party or voter may observe the processing and counting
8 of provisional ballots with safeguards for preserving the security, confidentiality
9 and integrity of any personal information collected in the course of processing and
10 counting the provisional ballots. This bill authorizes a provisional ballot to be
11 counted even though it is cast at the wrong polling place if it is otherwise allowed
12 under existing law to be counted.



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

- 1 **Section 1.** NRS 293.247 is hereby amended to read as follows:
2 293.247 1. The Secretary of State shall adopt regulations, not
3 inconsistent with the election laws of this State, for the conduct of
4 primary, general, special and district elections in all cities and
5 counties. The Secretary of State shall prescribe the forms for a
6 declaration of candidacy, certificate of candidacy, acceptance of
7 candidacy and any petition which is filed pursuant to the general
8 election laws of this State.
- 9 2. The regulations must prescribe:
- 10 (a) The duties of election boards;
- 11 (b) The type and amount of election supplies;
- 12 (c) The manner of printing ballots and the number of ballots to
13 be distributed to precincts and districts;
- 14 (d) The method to be used in distributing ballots to precincts and
15 districts;
- 16 (e) The method of inspection and the disposition of ballot boxes;
- 17 (f) The form and placement of instructions to voters;
- 18 (g) The recess periods for election boards;
- 19 (h) The size, lighting and placement of voting booths;
- 20 (i) The amount and placement of guardrails and other furniture
21 and equipment at voting places;
- 22 (j) The disposition of election returns;
- 23 (k) The procedures to be used for canvasses, ties, recounts and
24 contests;
- 25 (l) The procedures to be used to ensure the security of the ballots
26 from the time they are transferred from the polling place until they
27 are stored pursuant to the provisions of NRS 293.391 or 293C.390;
- 28 (m) The procedures to be used to ensure the security and
29 accuracy of computer programs and tapes used for elections;
- 30 (n) The procedures to be used for the disposition of absent
31 ballots in case of an emergency;
- 32 (o) *The procedures for the processing and counting of a*
33 *provisional ballot cast pursuant to NRS 293.3081 or 293.3083,*
34 *including, without limitation:*
- 35 (1) *Standards for the processing and counting of all*
36 *provisional ballots to ensure that, after the conclusion of the count*
37 *of the provisional ballots, a candidate, political party or voter at*
38 *the election will have full, timely and effective recourse to the*
39 *recount and contest procedures provided pursuant to the*
40 *provisions of NRS 293.403 to 293.433, inclusive; and*
- 41 (2) *Standards for the observation by a candidate, political*
42 *party or other person of the processing and counting of*



1 *provisional ballots which are consistent with reasonable*
2 *procedures to protect the security, confidentiality and integrity of*
3 *personal information collected in the course of processing and*
4 *counting the provisional ballots;*

5 (p) The forms for applications to register to vote and any other
6 forms necessary for the administration of this title; and

7 ~~(p)~~ (q) Such other matters as determined necessary by the
8 Secretary of State.

9 3. The Secretary of State may provide interpretations and take
10 other actions necessary for the effective administration of the
11 statutes and regulations governing the conduct of primary, general,
12 special and district elections in this State.

13 4. The Secretary of State shall prepare and distribute to each
14 county and city clerk copies of:

15 (a) Laws and regulations concerning elections in this State;

16 (b) Interpretations issued by the Secretary of State's Office; and

17 (c) Any Attorney General's opinions or any state or federal
18 court decisions which affect state election laws or regulations
19 whenever any of those opinions or decisions become known to the
20 Secretary of State.

21 **Sec. 2.** NRS 293.3085 is hereby amended to read as follows:

22 293.3085 1. Following each election, a canvass of the
23 provisional ballots cast in the election must be conducted pursuant
24 to NRS 293.387 and, if appropriate, pursuant to NRS 293C.387.

25 2. The county and city clerk shall not:

26 (a) Include any provisional ballot in the unofficial results
27 reported on election night; or

28 (b) Open any envelope containing a provisional ballot before 8
29 a.m. on the Wednesday following election day.

30 3. Except as otherwise provided in subsection 4, *regardless of*
31 *whether a voter cast a* provisional ballot *at the appropriate polling*
32 *place, a provisional ballot* must be counted if:

33 (a) The county or city clerk determines that the person who cast
34 the provisional ballot was registered to vote in the election, eligible
35 to vote in the election and issued the appropriate ballot for the
36 address at which he resides;

37 (b) A voter who failed to provide ~~required~~ identification *as*
38 *required pursuant to the provisions of subsection 1 of NRS*
39 *293.2725* at the polling place or with his mailed ballot provides the
40 required identification to the county or city clerk not later than 5
41 p.m. on the Friday following election day; or

42 (c) A court order has not been issued by 5 p.m. on the Friday
43 following election day directing that provisional ballots cast
44 pursuant to subsection 3 of NRS 293.3081 not be counted, and the



1 provisional ballot was cast pursuant to subsection 3 of
2 NRS 293.3081.

3 4. A provisional ballot must not be counted if the county or
4 city clerk determines that the person who cast the provisional ballot
5 cast the wrong ballot for the address at which he resides.

6 **Sec. 3.** This act becomes effective upon passage and approval.

