

Senate Bill No. 404—Committee on
Legislative Operations and Elections

CHAPTER.....

AN ACT relating to elections; revising provisions relating to the challenge of a person applying to vote; authorizing a county or city clerk to order that the count of returns for early voting begin on or after the first day of early voting; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes: (1) a person applying to vote to be challenged orally by any registered voter upon certain grounds; and (2) a person who is challenged to cast a ballot under certain circumstances. If a challenge is based on residency, the challenged person can be issued a ballot if he or she: (1) executes a certain oath or affirmation; and (2) furnishes satisfactory identification which contains proof of the address at which the person actually resides. (NRS 293.303, 293C.292)

Sections 5 and 27 of this bill set forth what constitutes “satisfactory identification” for purposes of a challenged voter providing proof of residency.

Sections 5 and 27 further provide that the provisions of existing law relating to challenging a voter do not authorize any person to challenge the ability of a registered voter to vote by mail ballot.

Existing law requires the appropriate board to count in public the returns for early voting after 8 a.m. on election day. (NRS 293.3606, 293C.3606) **Sections 8 and 28** of this bill provide instead that on or after the first day of early voting, the county or city clerk, respectively, may order the appropriate board to begin the counting of the returns for early voting, but, in any case, the counting of the returns for early voting must begin not later than 8 a.m. on election day.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Sections 1-4. (Deleted by amendment.)

Sec. 5. NRS 293.303 is hereby amended to read as follows:

293.303 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct upon the ground that he or she is not the person entitled to vote as claimed or has voted before at the same election. A registered voter who initiates a challenge pursuant to this paragraph must submit an affirmation that is signed under penalty of perjury and in the form prescribed by the Secretary of State stating that the challenge is based on the personal knowledge of the registered voter.

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.



2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that the challenged person does not belong to the political party designated upon the roster, “I swear or affirm under penalty of perjury that I belong to the political party designated upon the roster”;

(b) If the challenge is on the ground that the roster does not show that the challenged person designated the political party to which he or she claims to belong, “I swear or affirm under penalty of perjury that I designated on the application to register to vote the political party to which I claim to belong”;

(c) If the challenge is on the ground that the challenged person does not reside at the residence for which the address is listed in the roster, “I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the roster”;

(d) If the challenge is on the ground that the challenged person previously voted a ballot for the election, “I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election”; or

(e) If the challenge is on the ground that the challenged person is not the person he or she claims to be, “I swear or affirm under penalty of perjury that I am the person whose name is in this roster.”
↳ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.

3. Except as otherwise provided in subsection 4, if the challenged person refuses to execute the oath or affirmation so tendered, the person must not be issued a ballot, and the election board officer shall indicate in the roster “Challenged” by the person’s name.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) or (b) of subsection 2, the election board officers shall issue the person a nonpartisan ballot.

5. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (c) of subsection 2, the election board officers shall inform the person that he or she is entitled to vote only in the manner prescribed in NRS 293.304.

6. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (e) of subsection 2, the election board officers shall issue the person a partisan ballot.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2, and the challenged person executes the oath or



affirmation, the election board shall not issue the person a ballot until he or she furnishes satisfactory identification which contains proof of the address at which the person actually resides. For the purposes of this subsection, ~~[a voter registration card does not provide proof of the address at which a person resides.]~~ *“satisfactory identification” includes, without limitation, any of the following that includes the current residential address of the person:*

- (a) A current and valid driver’s license or identification card issued by the Department of Motor Vehicles;*
- (b) A military identification card;*
- (c) A tribal identification card;*
- (d) A utility bill;*
- (e) A bank or credit union statement;*
- (f) A paycheck;*
- (g) An income tax return;*
- (h) A statement concerning the mortgage, rental or lease of a residence;*
- (i) A motor vehicle registration;*
- (j) A property tax statement; or*
- (k) Any other document issued by a governmental agency.*

8. If the challenge is based on the ground set forth in paragraph (e) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless the person:

(a) Furnishes official identification which contains a photograph of the person, such as a driver’s license or other official document; or

(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of that person, such as a driver’s license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he or she swears to be.

9. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.



10. *The provisions of this section do not authorize any person to challenge the ability of a registered voter to vote by mail ballot.*

Secs. 6 and 7. (Deleted by amendment.)

Sec. 8. NRS 293.3606 is hereby amended to read as follows:

293.3606 1. ~~[After 8 a.m. on election]~~ *On or after the first day [] of early voting, the county clerk may order the appropriate board [shall] to begin the count [in public] of the returns for early voting [], but, in any case, the count of the returns for early voting must begin not later than 8 a.m. on election day.*

2. The returns for early voting must not be reported until after the polls have closed on election day.

3. The returns for early voting must be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of the voter's ballot.

4. The county clerk shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public information relating to the count of returns for early voting before the polls close is guilty of a gross misdemeanor.

Secs. 9-26. (Deleted by amendment.)

Sec. 27. NRS 293C.292 is hereby amended to read as follows:

293C.292 1. A person applying to vote may be challenged:

(a) Orally by any registered voter of the precinct or district upon the ground that he or she is not the person entitled to vote as claimed or has voted before at the same election; or

(b) On any ground set forth in a challenge filed with the county clerk pursuant to the provisions of NRS 293.547.

2. If a person is challenged, an election board officer shall tender the challenged person the following oath or affirmation:

(a) If the challenge is on the ground that the challenged person does not reside at the residence for which the address is listed in the roster, "I swear or affirm under penalty of perjury that I reside at the residence for which the address is listed in the roster";

(b) If the challenge is on the ground that the challenged person previously voted a ballot for the election, "I swear or affirm under penalty of perjury that I have not voted for any of the candidates or questions included on this ballot for this election"; or

(c) If the challenge is on the ground that the challenged person is not the person he or she claims to be, "I swear or affirm under penalty of perjury that I am the person whose name is in this roster."

➔ The oath or affirmation must be set forth on a form prepared by the Secretary of State and signed by the challenged person under penalty of perjury.



3. If the challenged person refuses to execute the oath or affirmation so tendered, the person must not be issued a ballot, and the election board officer shall indicate in the roster "Challenged" by the person's name.

4. If the challenged person refuses to execute the oath or affirmation set forth in paragraph (a) of subsection 2, the election board officers shall inform the person that he or she is entitled to vote only in the manner prescribed in NRS 293C.295.

5. If the challenged person executes the oath or affirmation and the challenge is not based on the ground set forth in paragraph (c) of subsection 2, the election board officers shall issue him or her a ballot.

6. If the challenge is based on the ground set forth in paragraph (a) of subsection 2, and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot until he or she furnishes satisfactory identification that contains proof of the address at which the person actually resides. For the purposes of this subsection, ~~[a voter registration card does not provide proof of the address at which a person resides.]~~ ***"satisfactory identification" includes, without limitation, any of the following that includes the current residential address of the person:***

(a) A current and valid driver's license or identification card issued by the Department of Motor Vehicles;

(b) A military identification card;

(c) A tribal identification card;

(d) A utility bill;

(e) A bank or credit union statement;

(f) A paycheck;

(g) An income tax return;

(h) A statement concerning the mortgage, rental or lease of a residence;

(i) A motor vehicle registration;

(j) A property tax statement; or

(k) Any other document issued by a governmental agency.

7. If the challenge is based on the ground set forth in paragraph (c) of subsection 2 and the challenged person executes the oath or affirmation, the election board shall not issue the person a ballot unless the person:

(a) Furnishes official identification which contains a photograph of the person, such as a driver's license or other official document; or



(b) Brings before the election board officers a person who is at least 18 years of age who:

(1) Furnishes official identification which contains a photograph of the person, such as a driver's license or other official document; and

(2) Executes an oath or affirmation under penalty of perjury that the challenged person is who he or she swears to be.

8. The election board officers shall:

(a) Record on the challenge list:

(1) The name of the challenged person;

(2) The name of the registered voter who initiated the challenge; and

(3) The result of the challenge; and

(b) If possible, orally notify the registered voter who initiated the challenge of the result of the challenge.

9. The provisions of this section do not authorize any person to challenge the ability of a registered voter to vote by mail ballot.

Sec. 28. NRS 293C.3606 is hereby amended to read as follows:

293C.3606 1. ~~{After 8 a.m. on election}~~ ***On or after the first day [.] of early voting, the city clerk may order the appropriate board [shall] to begin the count [in public] of the returns for early voting [.] , but, in any case, the count of the returns for early voting must begin not later than 8 a.m. on election day.***

2. The returns for early voting must not be reported until after the polls have closed on election day.

3. The returns for early voting may be reported separately from the regular votes of the precinct, unless reporting the returns separately would violate the secrecy of the voter's ballot.

4. The city clerk shall develop a procedure to ensure that each ballot is kept secret.

5. Any person who disseminates to the public information relating to the count of returns for early voting before the polls close is guilty of a gross misdemeanor.

Secs. 29-70. (Deleted by amendment.)

Sec. 71. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 70, inclusive, of this act become effective:

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

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



