

SENATE BILL NO. 436—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

MARCH 23, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to elections.
(BDR 24-1146)

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; making various changes relating to the registration of voters for elections; requiring certain persons conducting a voter registration drive to register with the Secretary of State and the county clerk and to provide and update a list of voter registration workers; requiring such persons and workers to comply with certain rules and regulations; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing federal law, the states have the power to regulate the voter
2 registration and election processes, except that Congress has the power to preempt
3 state election laws concerning federal elections. (U.S. Const. Art. I, § 4; *Foster v.*
4 *Love*, 522 U.S. 67, 69 (1997); *Arizona v. Inter Tribal Council of Ariz., Inc.*, 133 S.
5 Ct. 2247, 2251-54 (2013)) In 1993, Congress enacted the National Voter
6 Registration Act (NVRA) to: (1) establish procedures to increase voter registration
7 for federal elections; (2) make it possible for federal, state and local agencies to
8 enhance voter participation in federal elections; (3) protect the integrity of the
9 election process; and (4) ensure that accurate and current voter registration rolls are
10 maintained. (52 U.S.C. § 20501) Although the NVRA regulates certain aspects of
11 the voter registration process, it does not broadly preempt all state election laws but
12 preempts only those laws that are in conflict with the federal provisions. (*Arizona v.*
13 *Inter Tribal Council of Ariz., Inc.*, 133 S. Ct. 2247, 2253-54 (2013); *Charles H.*
14 *Wesley Educ. Found., Inc. v. Cox*, 408 F.3d 1349, 1354-55 (11th Cir. 2005))
15 The NVRA requires the states to make voter registration forms available for
16 distribution through governmental and private entities, with particular emphasis on
17 making them available for organized voter registration programs. (52 U.S.C. §
18 20505) The NVRA also establishes certain requirements for voter registration
19 forms and states that the forms may require only such identifying information and



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20 other information as is necessary to enable state election officials to assess the
21 eligibility of the applicant and to administer voter registration and other parts of the
22 election process. (52 U.S.C. § 20508) Federal courts have held that the NVRA does
23 not preempt the states from regulating private organizations seeking to conduct
24 voter registration drives or requiring such organizations to: (1) register with state
25 election officials before conducting the voter registration drives; or (2) place
26 information identifying the organization on the voter registration forms collected by
27 the organization during the voter registration drives. (*Am. Ass'n of People with*
28 *Disabilities v. Herrera*, 690 F. Supp. 2d 1183, 1224-26 (D.N.M. 2010); *League of*
29 *Women Voters of Fla. v. Browning*, 863 F. Supp. 2d 1155, 1165-66 (N.D. Fla.
30 2012))

31 Even though the NVRA does not preempt the states from regulating such voter
32 registration organizations and voter registration drives, federal courts have held that
33 the voter registration process includes some elements of free speech, association
34 and expression protected by the First Amendment to the United States Constitution.
35 (*Voting for Am., Inc. v. Steen*, 732 F.3d 382, 386-99 (5th Cir. 2013); *Project Vote v.*
36 *Blackwell*, 455 F. Supp. 2d 694, 703-07 (N.D. Ohio 2006); *League of Women*
37 *Voters of Fla. v. Browning*, 575 F. Supp. 2d 1298, 1319-25 (S.D. Fla. 2008); *Am.*
38 *Ass'n of People with Disabilities v. Herrera*, 690 F. Supp. 2d 1183, 1211-20
39 (D.N.M. 2010); *League of Women Voters of Fla. v. Browning*, 863 F. Supp. 2d
40 1155, 1158-65 (N.D. Fla. 2012)) As a result, while the Legislature may enact
41 reasonable, nondiscriminatory regulations governing the voter registration process,
42 the regulations “must be justified by relevant and legitimate state interests
43 sufficiently weighty to justify the limitation.” (*Crawford v. Marion County*
44 *Election Bd.*, 553 U.S. 181, 191 (2008) (quoting *Norman v. Reed*, 502 U.S. 279,
45 288-89 (1992)); *Burdick v. Takushi*, 504 U.S. 428, 434 (1992); *Anderson v.*
46 *Celebrezze*, 460 U.S. 780, 788-89 (1983))

47 Under existing law, the Secretary of State and local election officials administer
48 and regulate the voter registration process, and existing law: (1) directs the
49 Secretary of State to prescribe the forms used in this State for applications to
50 register to vote; (2) requires certain information to be included on the voter
51 registration forms; and (3) allows the county clerks to provide the voter registration
52 forms to candidates, political parties or other persons who intend to conduct voter
53 registration drives. (NRS 293.507, 293.509) **Sections 8.1-8.8** of this bill enact
54 provisions which further regulate certain voter registration organizations, voter
55 registration workers and voter registration drives and which are intended to protect
56 against fraud, incompetence, negligence and mistakes in the voter registration
57 process and to help safeguard the public’s faith and confidence in the integrity and
58 reliability of the election process.

59 **Section 8.3** defines the term “ voter registration drive ” to mean any
60 coordinated, organized or systematic activity, effort or plan to register or attempt to
61 register, in the aggregate, more than 50 potential voters in this State during a
62 calendar year. **Section 8.8** provides that before conducting any voter registration
63 drive in any county, a voter registration organization must: (1) register with the
64 Secretary of State and the county clerk; and (2) submit a list containing the name
65 and signature of any paid or unpaid voter registration worker who will be acting on
66 behalf of the organization as part of a voter registration drive. Thereafter, the
67 organization must update the list periodically, within the times prescribed by the
68 Secretary of State, to add or remove workers from the list and to specify the date on
69 which each worker was added to or removed from the list.

70 **Section 8.8** further requires each worker who collects or assists in the
71 completion of any voter registration form to include the worker’s name and
72 signature and the name of the organization on or with the form in a manner
73 prescribed by the Secretary of State. If any worker violates this requirement, the



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74 worker is subject to a civil penalty in an amount not to exceed \$500 for each
75 violation, but the worker is not subject to any criminal penalty.

76 Finally, after receiving a voter registration form from the organization or a
77 worker, **section 8.8** requires the Secretary of State and county clerk to verify that
78 the name and signature of the worker and the name of the organization included on
79 or with the form are consistent with the information provided on the organization's
80 list of workers. If the name or signature of the worker is not included on the
81 organization's list of workers, the organization is subject to a civil penalty in an
82 amount not to exceed \$1,000 for each violation, and the organization is also subject
83 to any criminal penalty provided by law.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** (Deleted by amendment.)

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 5.** (Deleted by amendment.)

6 **Sec. 6.** (Deleted by amendment.)

7 **Sec. 7.** (Deleted by amendment.)

8 **Sec. 8.** (Deleted by amendment.)

9 **Sec. 8.05.** Chapter 293 of NRS is hereby amended by adding
10 thereto the provisions set forth as sections 8.1 to 8.8, inclusive, of
11 this act.

12 **Sec. 8.1.** *As used in sections 8.1 to 8.8, inclusive, of this act,*
13 *unless the context otherwise requires, the words and terms defined*
14 *in sections 8.2 to 8.6, inclusive, of this act have the meanings*
15 *ascribed to them in those sections.*

16 **Sec. 8.2. 1.** *“Voter registration agency” means any agency,*
17 *office or other entity that serves as a voter registration agency*
18 *pursuant to NRS 293.504 or any other state or federal law.*

19 **2.** *The term includes, without limitation, any person who is*
20 *an employee, contractor or volunteer of a voter registration agency*
21 *if the person is acting within the course and scope of the person’s*
22 *duties as an employee, contractor or volunteer of the voter*
23 *registration agency.*

24 **Sec. 8.3. 1.** *“Voter registration drive” means any*
25 *coordinated, organized or systematic activity, effort or plan by one*
26 *or more persons to register or attempt to register, in the aggregate,*
27 *more than 50 potential voters in this State during a calendar year.*

28 **2.** *The term does not include any activity, effort or plan by a*
29 *voter registration agency to register or attempt to register one or*
30 *more potential voters in this State pursuant to NRS 293.504 or any*
31 *other state or federal law.*



1 **Sec. 8.4. 1.** *“Voter registration form” or “form” means any*
2 *paper, electronic or other form that may be used for an application*
3 *to register to vote pursuant to NRS 293.507 or any other state or*
4 *federal law.*

5 2. *The term includes, without limitation, any paper, electronic*
6 *or other form that may be used for an application to register to*
7 *vote in a system which allows voter registration by computer*
8 *pursuant to NRS 293.506 or any other state or federal law.*

9 **Sec. 8.5. 1.** *“Voter registration organization” or*
10 *“organization” means any person who intends to conduct,*
11 *attempts to conduct or conducts a voter registration drive in this*
12 *State.*

13 2. *The term includes, without limitation:*

14 (a) *Any person acting alone.*

15 (b) *Any group of persons acting in concert, whether or not*
16 *formally organized.*

17 (c) *Any candidate, political party or other person, including,*
18 *without limitation, any candidate, political party or other person*
19 *who submits a request for voter registration forms to the county*
20 *clerk pursuant to NRS 293.509 for the purposes of a voter*
21 *registration drive.*

22 3. *The term does not include a voter registration agency.*

23 **Sec. 8.6. 1.** *“Voter registration worker” or “worker” means*
24 *any paid or unpaid employee, contractor, volunteer or other*
25 *person who, while acting on behalf of a voter registration*
26 *organization conducting a voter registration drive:*

27 (a) *Intends to collect, attempts to collect or collects from one or*
28 *more potential voters any voter registration form; or*

29 (b) *Intends to assist, attempts to assist or assists one or more*
30 *potential voters to complete any voter registration form.*

31 2. *The term does not include any person who, while acting on*
32 *behalf of a voter registration organization conducting a voter*
33 *registration drive, advocates, encourages or solicits one or more*
34 *potential voters to register to vote or provides one or more*
35 *potential voters with any voter registration form if the person does*
36 *not intend to engage, attempt to engage or engage in any of the*
37 *conduct described in subsection 1.*

38 **Sec. 8.7. 1.** *The Secretary of State shall:*

39 (a) *Adopt regulations to carry out the provisions of sections 8.1*
40 *to 8.8, inclusive, of this act.*

41 (b) *Prescribe the methods for a voter registration organization*
42 *to register with the Secretary of State and county clerks and to*
43 *submit and update the list of voter registration workers provided*
44 *by the organization. The methods must include, without limitation:*

45 (1) *Mail; and*



1 (2) *A secure Internet website or any other electronic means.*
2 2. *The Secretary of State and county clerks shall administer,*
3 *interpret and apply the provisions of sections 8.1 to 8.8, inclusive,*
4 *of this act:*

5 (a) *In a manner that is consistent with the National Voter*
6 *Registration Act of 1993, 52 U.S.C. §§ 20501 et seq., as amended,*
7 *or any other federal law; and*

8 (b) *To effectuate their general protective and beneficial*
9 *purpose, including, without limitation, to:*

10 (1) *Protect against fraud, incompetence, negligence and*
11 *mistakes in the voter registration process; and*

12 (2) *Help safeguard the public's faith and confidence in the*
13 *integrity and reliability of the election process.*

14 **Sec. 8.8.** *1. A voter registration organization shall not*
15 *conduct a voter registration drive in any county in this State*
16 *unless, before conducting the voter registration drive in that*
17 *county, the organization registers with the Secretary of State and*
18 *the county clerk pursuant to the provisions of sections 8.1 to 8.8,*
19 *inclusive, of this act.*

20 2. *To register with the Secretary of State and the county*
21 *clerk, the organization shall submit a registration statement using*
22 *the form and one of the methods for registration prescribed by the*
23 *Secretary of State.*

24 3. *The registration statement must include, without*
25 *limitation, a list that contains the name and signature, or a*
26 *facsimile thereof, of any voter registration worker who will be*
27 *acting on behalf of the organization as part of a voter registration*
28 *drive.*

29 4. *The organization shall update the list of workers' names*
30 *and signatures periodically, within the times prescribed by the*
31 *Secretary of State, to add or remove workers from the list and to*
32 *specify the date on which each worker was added to or removed*
33 *from the list.*

34 5. *If any worker, while acting on behalf of the organization*
35 *as part of a voter registration drive, collects from a potential voter*
36 *any voter registration form or assists a potential voter to complete*
37 *any voter registration form, the worker shall include the worker's*
38 *name and signature and the name of the organization on or with*
39 *the form in a manner prescribed by the Secretary of State.*

40 6. *If any worker violates the provisions of subsection 5, the*
41 *worker is subject to a civil penalty pursuant to NRS 293.840 in an*
42 *amount not to exceed \$500 for each violation, but the worker is*
43 *not subject to any criminal penalty.*

44 7. *After receiving a voter registration form from the*
45 *organization or any of the organization's workers, the Secretary of*



1 *State and county clerk shall verify that the name and signature of*
2 *the worker and the name of the organization included on or with*
3 *the form are consistent with the information provided by the*
4 *organization on the organization's list of workers.*

5 *8. If the name or signature of the worker included on or with*
6 *the voter registration form is not included on the organization's*
7 *list of workers, the organization is subject to a civil penalty*
8 *pursuant to NRS 293.840 in an amount not to exceed \$1,000 for*
9 *each violation, and the organization is also subject to any criminal*
10 *penalty provided by law.*

11 **Sec. 8.9.** NRS 293.507 is hereby amended to read as follows:

12 293.507 1. The Secretary of State shall prescribe:

13 (a) A standard form for applications to register to vote;

14 (b) A special form for registration to be used in a county where
15 registrations are performed and records of registration are kept by
16 computer; and

17 (c) A standard form for the affidavit described in subsection 5.

18 2. The county clerks shall provide forms for applications to
19 register to vote to field registrars in the form and number prescribed
20 by the Secretary of State.

21 3. Each form for an application to register to vote must include

22 a:

23 (a) Unique control number assigned by the Secretary of State;
24 and

25 (b) Receipt which:

26 (1) Includes a space for a person assisting an applicant in
27 completing the form to enter the person's name; and

28 (2) May be retained by the applicant upon completion of the
29 form.

30 4. The form for an application to register to vote must include:

31 (a) A line for use by the applicant to enter:

32 (1) The number indicated on the applicant's current and valid
33 driver's license issued by the Department of Motor Vehicles, if the
34 applicant has such a driver's license;

35 (2) The last four digits of the applicant's social security
36 number, if the applicant does not have a driver's license issued by
37 the Department of Motor Vehicles and does have a social security
38 number; or

39 (3) The number issued to the applicant pursuant to subsection
40 5, if the applicant does not have a current and valid driver's license
41 issued by the Department of Motor Vehicles or a social security
42 number.

43 (b) A line on which to enter the address at which the applicant
44 actually resides, as set forth in NRS 293.486.



1 (c) A notice that the applicant may not list a business as the
2 address required pursuant to paragraph (b) unless the applicant
3 actually resides there.

4 (d) A line on which to enter an address at which the applicant
5 may receive mail, including, without limitation, a post office box or
6 general delivery.

7 5. If an applicant does not have the identification set forth in
8 subparagraph (1) or (2) of paragraph (a) of subsection 4, the
9 applicant shall sign an affidavit stating that he or she does not have a
10 current and valid driver's license issued by the Department of Motor
11 Vehicles or a social security number. Upon receipt of the affidavit,
12 the county clerk shall issue an identification number to the applicant
13 which must be the same number as the unique identifier assigned to
14 the applicant for purposes of the statewide voter registration list.

15 6. *The form for an application to register to vote may include:*

16 (a) *One or more lines for a voter registration worker to provide*
17 *his or her name and signature and the name of the voter*
18 *registration organization on whose behalf he or she is acting as*
19 *part of a voter registration drive pursuant to the provisions of*
20 *sections 8.1 to 8.8, inclusive, of this act; and*

21 (b) *Any other information that the Secretary of State*
22 *determines is necessary to carry out the provisions of sections 8.1*
23 *to 8.8, inclusive, of this act.*

24 7. The Secretary of State shall adopt regulations to carry out
25 the provisions of ~~subsections 3, 4 and 5.~~ *this section.*

26 **Sec. 9.** NRS 293.509 is hereby amended to read as follows:

27 293.509 1. A county clerk may provide the form for the
28 application to register to vote prescribed by the Secretary of State
29 pursuant to NRS 293.507 to ~~at~~ *any* candidate, major political party,
30 minor political party or ~~any~~ other person submitting a request
31 pursuant to subsection 2.

32 2. ~~At~~ *Any* candidate, major political party, minor political
33 party or other person *who wants to obtain forms for the application*
34 *to register to vote from the county clerk* shall:

35 (a) Submit a request for *the* forms for the application to register
36 to vote to the county clerk in person, by telephone, in writing or by
37 facsimile machine; and

38 (b) State the number of forms for the application to register to
39 vote that the candidate, major political party, minor political party or
40 other person is requesting.

41 3. The county clerk may record the control numbers assigned
42 to the forms by the Secretary of State pursuant to NRS 293.507 of
43 the forms he or she provided in response to the request. The county
44 clerk shall maintain a request for multiple ~~applications~~ *forms* with
45 the county clerk's records.



1 **4. If any candidate, major political party, minor political**
2 **party or other person who submits a request for multiple forms to**
3 **the county clerk qualifies as a voter registration organization that**
4 **will be conducting a voter registration drive in the county**
5 **pursuant to the provisions of sections 8.1 to 8.8, inclusive, of this**
6 **act, the candidate, major political party, minor political party or**
7 **other person shall register with the Secretary of State and the**
8 **county clerk as required by those provisions.**

9 **Sec. 10.** (Deleted by amendment.)

10 **Sec. 11.** (Deleted by amendment.)

11 **Sec. 12.** (Deleted by amendment.)

12 **Sec. 13.** (Deleted by amendment.)

13 **Sec. 14.** (Deleted by amendment.)

14 **Sec. 15.** (Deleted by amendment.)

15 **Sec. 16.** (Deleted by amendment.)

16 **Sec. 17.** (Deleted by amendment.)

17 **Sec. 18.** (Deleted by amendment.)

18 **Sec. 19.** (Deleted by amendment.)

19 **Sec. 20.** This act becomes effective:

20 1. Upon passage and approval for the purpose of adopting any
21 regulations and performing any other preparatory administrative
22 tasks necessary to carry out the provisions of this act; and

23 2. On January 1, 2016, for all other purposes.

