

**ADOPTED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R018-07

Effective September 18, 2008

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

AUTHORITY: §§1-12, NRS 293.124 and 293.675; §13, NRS 293.124.

A REGULATION relating to elections; requiring county clerks to establish and maintain computerized databases of registered voters; requiring county clerks to electronically transfer information from the computerized database to the statewide voter registration list; providing that the Secretary of State will verify the accuracy of the statewide voter registration list; making various other changes relating to the statewide voter registration list; and providing other matters properly relating thereto.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this regulation.

Sec. 2. 1. *Each county clerk shall establish and maintain a computerized database of registered voters in the county that is compatible with the statewide voter registration list and meets such technical requirements as may be prescribed by the Secretary of State. The database must include, without limitation:*

(a) Except as otherwise provided in section 11 of this regulation, the name, residential address and date of birth of each registered voter in the county;

(b) For each registered voter described in paragraph (a):

(1) At least one of the following:

(I) The driver's license number or identification card number of the registered voter;

(II) The last four digits of the social security number of the registered voter; or

(III) An indication that the county clerk received from the registered voter the affidavit described in subsection 5 of NRS 293.507;

(2) A voting history indicating the dates on which and locations at which the registered voter cast a ballot in an election;

(3) Except as otherwise provided in NRS 293.2725, whether the registered voter provided, at the time that he registered to vote, official identification as required pursuant to NRS 293.517;

(4) If the county clerk has mailed a written notice to the voter pursuant to NRS 293.530, the date that the notice was mailed and an indication of whether the registered voter responded to the notice;

(5) If the county clerk has designated the registered voter as inactive pursuant to NRS 293.530, the effective date of the designation;

(6) If the county clerk has cancelled the registration of the registered voter, the effective date of the cancellation; and

(7) If the registered voter submitted his application to register to vote on or after January 1, 2006, a determination of whether the registered voter has submitted a ballot in a federal election; and

(c) A determination of whether the registered voter submitted to the county clerk an application to register to vote that contains incorrect or incomplete information.

2. The county clerk shall classify the registration of each registered voter in the computerized database established pursuant to subsection 1 using the following classifications, as applicable:

(a) "Active," if the residential address of the registered voter is current.

(b) “Active pending,” if the registered voter:

(1) Has provided all critical eligibility criteria but must have information concerning his registration confirmed; or

(2) Is required to provide some type of identification before voting but is otherwise eligible to vote.

(c) “Cancelled,” if the registration of the registered voter is cancelled pursuant to NRS 293.530.

(d) “Fatal pending,” if the registered voter has failed to provide certain critical eligibility criteria and is ineligible to vote until the critical eligibility criteria is provided to the county clerk.

(e) “Inactive,” if the registered voter failed to return a postcard mailed pursuant to subsection 3 of NRS 293.530.

(f) “P-17,” if the registered voter was under 18 years of age at the time he submitted his application to register to vote but will be 18 years of age or older on or before the day of the election.

(g) “Void,” if the application of the person to register to vote is void pursuant to subsection 6 of NRS 293.5235 or subsection 4 of NRS 293.524.

3. Each election board officer shall determine the eligibility of a person to vote on the basis of the classification indicated on the statewide voter registration list for the following classifications:

(a) A person whose registration is classified as “active,” “active pending” or “inactive” is eligible to vote.

(b) A person whose registration is classified as “P-17” is eligible to vote if the election takes place on or after the person’s 18th birthday.

(c) A person whose registration is classified as “cancelled,” “fatal pending” or “void” is ineligible to vote, unless the county clerk, deputy clerk or election board officer determines on or before the date of the election that, pursuant to law, the person is eligible to vote.

4. As used in this section, “critical eligibility criteria” includes the signature of the registered voter on his application to register to vote, the information described in paragraph (a) of subsection 1 and the information described in subparagraph (1) of paragraph (b) of subsection 1.

Sec. 3. Each county clerk shall:

1. Electronically enter into the computerized database established pursuant to section 2 of this regulation all information relating to voter registration obtained by the county clerk at the time the information is provided to the county clerk; and

2. For each person who is described in subsection 2 of NRS 293.2725, indicate such fact in the statewide voter registration list in the form prescribed by the Secretary of State.

Sec. 4. 1. Each county clerk shall, at least once each business day, electronically transfer the information contained in the computerized database established pursuant to section 2 of this regulation to the statewide voter registration list. Each transfer must comply with such technical requirements as may be prescribed by the Secretary of State.

2. When a county clerk electronically transfers information to the statewide voter registration list pursuant to subsection 1, the county clerk must certify that:

(a) The information is accurate and complies with relevant state and federal law; and

(b) The county clerk has complied with such applicable technical requirements for security as may be prescribed by the Secretary of State to ensure the confidentiality of the information transferred pursuant to subsection 1.

3. Each county clerk shall ensure that only authorized personnel may access the computerized database established pursuant to section 2 of this regulation.

Sec. 5. On each business day, the Secretary of State will check the contents of the statewide voter registration list by:

1. Determining whether any person is included as a registered voter in the statewide voter registration list more than once.

2. For every registered voter who submitted his application to register to vote on or after January 1, 2006, comparing the driver's license number, identification card number or last four digits of the social security number of the voter set forth in the statewide voter registration list, if any, with the information in the appropriate database of the Department.

Sec. 6. 1. On each business day, the Secretary of State will compare the statewide voter registration list to the vital statistics records maintained by the State Registrar of Vital Statistics.

2. If the Secretary of State determines from the comparison made pursuant to subsection 1 that a registered voter is indicated as deceased in the vital statistics records:

(a) The Secretary of State will notify the county clerk of the county in which the voter is registered to vote.

(b) Upon receipt of the notification described in paragraph (a), the county clerk shall determine whether the registered voter is deceased and, if so, indicate that the registration of

the voter is cancelled in the computerized database established pursuant to section 2 of this regulation and in the statewide voter registration list.

Sec. 7. 1. *If a county clerk receives notice from the Secretary of State or another county clerk that the statewide voter registration list contains information that is potentially inaccurate, duplicative or otherwise requiring verification, the county clerk shall, not later than 5 calendar days after receiving such notification, take such action as is necessary to correct the information in the statewide voter registration list and in the computerized database established pursuant to section 2 of this regulation.*

2. If the county clerk is unable to obtain the correct information relating to the voter that is described in subsection 1 before the day of an election, the voter must show such identification before any ballot may be cast, except that a voter may cast a provisional ballot pursuant to the provisions of NRS 293.3081 to 293.3086, inclusive.

Sec. 8. *If a county clerk is required to cancel the registration of a person pursuant to subsection 3 of NRS 293.540, the county clerk shall ensure that the cancellation is recorded in the computerized database established pursuant to section 2 of this regulation and in the statewide voter registration list.*

Sec. 9. 1. *At the close of business on the 19th calendar day before a particular election, the Secretary of State will make a record, to be used by each county clerk, of the official list of registered voters in this State for that election.*

2. The official list of registered voters distributed pursuant to subsection 1:

(a) Except as otherwise provided in subsection 3, must be used to determine voter eligibility and the validity of any provisional ballot cast in the election; and

(b) May only be amended by the Secretary of State or a county clerk under the following circumstances:

- (1) A court of competent jurisdiction orders such amendment;*
- (2) A person registers to vote pursuant to NRS 293.502 after the 19th calendar day before the election;*
- (3) Pursuant to the provisions of sections 5 to 8, inclusive, or 11 of this regulation; or*
- (4) The clerk determines that the voter was incorrectly omitted from the list of registered voters.*

3. Each county clerk shall prepare registers, rosters and lists used at polling places by using the information contained in the computerized database established pursuant to section 2 of this regulation if such information is identical to the information contained in the official list of registered voters distributed pursuant to subsection 1.

Sec. 10. *Each county clerk shall submit to the Secretary of State, not later than 45 business days after each primary or general election, a voting history for each voter in the county who cast a ballot in the election. The voting history must be in the format prescribed by the Secretary of State and must indicate the dates on which and locations at which each registered voter cast a ballot.*

Sec. 11. 1. *The Secretary of State will not and the county clerks shall not include in the statewide voter registration list the confidential address of a person for whom a fictitious address has been issued pursuant to NRS 217.462 to 217.471, inclusive, and who has registered to vote pursuant to NRS 293.5002.*

2. If a registered voter submits to a county clerk pursuant to NRS 293.558 a written request to have the voter's address and telephone number withheld from the public, the county

clerk shall indicate such fact in the computerized database established pursuant to section 2 of this regulation and in the statewide voter registration list.

Sec. 12. NAC 293.010 is hereby amended to read as follows:

293.010 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.
3. “Results cartridge” means the cartridge of a mechanical recording device which contains the electronically recorded ballots cast during the election and from which the ballots are tabulated.
4. “Signature stamp” has the meaning ascribed to it in NRS 426.257.
5. *“Statewide voter registration list” has the meaning ascribed to it in NRS 293.111.*
6. “Voter verifiable paper audit trail printer” or “VVPAT” means the device attached to a mechanical recording device and the paper it prints to record all votes cast by a voter for any and all candidates and for or against any and all measures, enabling that voter to visually verify that the mechanical voting system has accurately recorded the votes of the voter.

~~6.~~ 7. “Voting booth” means any place or compartment used to screen a voter from the observation of others.

Sec. 13. NAC 294A.115 is hereby amended to read as follows:

294A.115 1. An amended form for registration filed by a ballot advocacy group pursuant to subsection 3 of NRS 294A.230 must be signed by an officer of the ballot advocacy group or the registered agent of the ballot advocacy group.

2. A ballot advocacy group becomes inactive:

(a) When the final vote is cast in the election in which the question or group of questions for which the ballot advocacy group is advocating the passage or defeat appears on the ballot; or

(b) If the election in which the question or group of questions for which the ballot advocacy group is advocating the passage or defeat appears on the ballot is the subject of a challenge or recount, when the challenge or recount is completed.

3. A ballot advocacy group must file a notice of inactivity with the Secretary of State not later than 30 days after becoming inactive.

4. The notice of inactivity required pursuant to subsection 3:

(a) Must be on a form prescribed by the Secretary of State; and

(b) Must include, without limitation:

(1) The name, address and phone number of the ballot advocacy group;

(2) The name of the registered agent of the ballot advocacy group; and

(3) The question or group of questions for which the ballot advocacy group is advocating the passage or defeat.

5. As used in this section, “ballot advocacy group” means a person or group of persons required to report campaign contributions and expenditures pursuant to NRS 294A.150 and

294A.220 ~~H~~ *or required to file a statement of organization pursuant to NRS 294A.281.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R018-07**

The Secretary of State adopted regulations assigned LCB File No. R018-07 which pertain to chapter 293 and 294A of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Elections Division of the Secretary of State's Office held a public workshop to solicit comments on the proposed regulation (R018-07) on Tuesday, June 24, 2008 in the Second Floor Annex Conference Room of the Capitol Building in Carson City. The public workshop was video-conferenced to Room 1400 of the Grant Sawyer Building in Las Vegas.

Notice of Workshop to Solicit Comments on Proposed Regulation was sent to all persons on the agency's mailing list for administrative regulations and posted at the following locations on Tuesday, May 20, 2008: the Capitol Building, 101 North Carson Street, Carson City, Nevada 89701; the State Library, 100 North Stewart Street, Carson City, Nevada 89701; the Secretary of State-Reno, 1755 East Plumb Lane, Suite 231, Reno, Nevada 89502; the Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada 89101; the Nevada State Legislative Building, 401 South Carson Street, Carson City, Nevada 89701; and on the Secretary of State Website: www.nvsos.gov.

Copies of all materials relating to the proposal were available at the workshop or by contacting the Elections Division, Secretary of State's Office, 101 North Carson Street, Suite 3, Carson City, Nevada 89701; (775) 684-5705. Persons wishing to comment upon the proposed regulations were invited to appear at the scheduled workshop or address their comments, in written form prior to the date of the Public Workshop, to the Secretary of State, Elections Division.

- 2. The number persons who:**

- (a) **Attended each hearing:** 5
- (b) **Testified at each hearing:** 1
- (c) **Submitted to the agency written comments:** None

- 3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

The Secretary of State finds that these regulations do not impose a direct and significant burden on small businesses in Nevada. These regulations are promulgated to carry out the provisions of Title 24 of Nevada Revised Statutes only, and have no direct impact on any

entity outside the election process. Entities impacted by these regulations include County Clerks/Registrars of Voters, City Clerks, voters, candidates for public office, and public officials. Additionally, the Elections Division of the Secretary of State's office does not regulate any Nevada business and therefore would not directly restrict the formation, operation, or expansion of a small business.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted at the Adoption Hearing on Thursday, June 26, 2008 with only minor technical changes to the regulation language as presented. The technical changes were adopted during the public workshop.

5. The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

- a. The proposed revisions are not expected to have immediate or long-term adverse or beneficial economic effects.
- b. There is no estimated economic effect on the public, either adverse or beneficial, nor immediate or long-term.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The temporary regulations do not include provisions that are more stringent than a federal regulation regulating the same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which money will be used.

The temporary regulations do not establish a new fee or increase an existing fee.