

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R096-21

December 20, 2021

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

AUTHORITY: §§ 1 and 4, NRS 293.124; § 2, NRS 293.124, 293.247, 293.3677 and 293B.360; § 3, NRS 293.124, 293.247, 293B.360 and 293B.375; § 5, NRS 293.124, 293.247, 293.3677 and 293C.640; § 6, NRS 293.124, 293.247, 293C.640 and 293C.655.

A REGULATION relating to elections; authorizing the creation and setting forth the duties of vote adjudication boards; setting forth certain duties for ballot duplicating boards; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a county or city clerk to create such boards and appoint officers as the clerk deems necessary for the expeditious processing of ballots. (NRS 293B.360, 293C.640) **Sections 2 and 5** of this regulation authorize a county clerk and city clerk to create vote adjudication boards for the purpose of resolving the intent of a voter in casting a ballot if the voter’s selection in relation to a particular race or ballot question cannot be determined using a mechanical device or other electronic means.

Existing law authorizes a county clerk and city clerk to create ballot duplicating boards whose duties include receiving damaged ballots and preparing exact copies of damaged ballots so that the duplicated ballots may later be counted. (NRS 293B.360, 293B.375, 293C.640, 293C.655) **Section 3 and 6** of this regulation: (1) set forth certain procedures for a ballot duplicating board when duplicating a ballot; and (2) require each county and city clerk to submit for the approval of the Secretary of State a procedure for duplicating ballots before it is used in the county or city, as applicable.

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

Sec. 2. 1. *The county clerk may create a vote adjudication board and appoint its members. If practicable, the members must be of different political parties. The same person*

may be appointed to more than one board or perform additional functions as an election board officer.

2. A vote adjudication board shall resolve the intent of a voter in casting his or her ballot if the voter's selection in relation to a particular race or ballot question cannot be determined using a mechanical device or other electronic means.

Sec. 3. *1. The county clerk may create a ballot duplicating board and appoint its members. If practicable, the members must be of different political parties. The same person may be appointed to more than one board or perform additional functions as an election board officer.*

2. If a ballot is damaged or defective such that it cannot be read by a mechanical device or other electronic means, the ballot duplicating board must duplicate the ballot and the duplicate ballot must be counted in place of the damaged ballot.

3. The ballot duplicating board shall:

- (a) Ensure that the correct precinct and ballot style is used to create the duplicate ballot;*
- (b) Mark the duplicate ballot so that the duplicate is identical to the original ballot;*
- (c) After finishing marking the duplicate ballot, verify that the duplicate ballot is identical to the original ballot, including, without limitation, any overvotes or undervotes;*
- (d) Log the duplicate ballot and the serial number of the duplicate ballot in the ballot duplication log; and*
- (e) If any errors are made while marking the duplicate ballot, mark the duplicate ballot as "SPOILED" and repeat the procedures set forth in paragraphs (a) to (d), inclusive, to create a new duplicate ballot.*

4. Each county clerk shall establish a procedure for duplicating ballots that must be approved by the Secretary of State before being used in the county.

5. As used in this section:

(a) "Duplicate" means the process of preparing a new ballot to replace a damaged or defective ballot, including, without limitation, ballots that have been torn, bent or mutilated.

(b) "Duplicate ballot" means the ballot prepared by a ballot duplicating board to replace a damaged ballot.

Sec. 4. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this regulation.

Sec. 5. 1. *The city clerk may create a vote adjudication board and appoint its members. If practicable, the members must be of different political parties. The same person may be appointed to more than one board or perform additional functions as an election board officer.*

2. A vote adjudication board shall resolve the intent of a voter in casting his or her ballot if the voter's selection in relation to a particular race or ballot question cannot be determined using a mechanical device or other electronic means.

Sec. 6. 1. *The city clerk may create a ballot duplicating board and appoint its members. If practicable, the members must be of different political parties. The same person may be appointed to more than one board or perform additional functions as an election board officer.*

2. If a ballot is damaged or defective such that it cannot be read by a mechanical device or other electronic means, the ballot duplicating board must duplicate the ballot and the duplicate ballot must be counted in place of the damaged ballot.

3. *The ballot duplicating board shall:*

(a) Ensure that the correct precinct and ballot style is used to create the duplicate ballot;

(b) Mark the duplicate ballot so that the duplicate is identical to the original ballot;

(c) After finishing marking the duplicate ballot, verify that the duplicate ballot is identical to the original ballot, including, without limitation, any overvotes or undervotes;

(d) Log the duplicate ballot and the serial number of the duplicate ballot in the ballot duplication log; and

(e) If any errors are made while marking the duplicate ballot, mark the duplicate ballot as “SPOILED” and repeat the procedures set forth in paragraphs (a) to (d), inclusive, to create a new duplicate ballot.

4. *Each city clerk shall establish a procedure for duplicating ballots that must be approved by the Secretary of State before being used in the city.*

5. *As used in this section:*

(a) “Duplicate” means the process of preparing a new ballot to replace a damaged or defective ballot, including, without limitation, ballots that have been torn, bent or mutilated.

(b) “Duplicate ballot” means the ballot prepared by a ballot duplicating board to replace a damaged ballot.