

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R097-21

December 20, 2021

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

AUTHORITY: §§ 1, 2, 4-8, 12, 13, 15 and 17, NRS 293.124 and 293.247; § 3, NRS 293.124, 293.247, 293.3025 and 293.565; §§ 9 and 14, NRS 293.124, 293.247 and 293C.369; § 10, NRS 293.124, 293.247, 293.3025 and 293C.530; § 11, NRS 293.124, 293.227, 293.247 and 293C.220; § 16, NRS 293.124, 293.247 and 293C.380.

A REGULATION relating to elections; revising certain procedures of election officers after voting is completed during the period for early voting and on election day; revising various provisions related to the preparation and distribution of elections materials by the county or city clerk; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires each county and city clerk to: (1) prepare and distribute sample ballots for an election; and (2) ensure that a copy of each sample ballot is posted at each polling place. (NRS 293.3025, 293.565, 293C.530) Existing regulations require that the county or city clerk prepare a sufficient number of explanations of the questions on the ballot so that, in relevant part, he or she can post at least two copies of the explanations in each precinct. (NAC 293.130, 293C.120) **Sections 3 and 10** of this regulation provide instead that the county or city clerk prepare a sufficient number of explanations of the questions on the ballot so that, in relevant part, he or she can post at least two copies of the explanations in each polling place.

Existing law authorizes: (1) a county clerk or city clerk to establish one or more polling places in the county or city, as applicable, where any person entitled to vote in the county or city by personal appearance may do so on the day of the primary election, primary city election, general election or general city election; and (2) any person entitled to vote in the county or city, as applicable, by personal appearance to do so at any such polling place. (NRS 293.3072, 293C.3032) A polling place where any person entitled to vote in the county or city by personal appearance may do so is commonly known as a “vote center.” Existing regulations require that the county or city clerk, as applicable, prepare certain election supplies and equipment for each precinct, including at least three copies of each sample ballot which pertains to the election. (NAC 293.220, 293C.310) **Sections 4 and 13** of this regulation instead require that the county or city clerk, as applicable, prepare certain election supplies and equipment for each polling place. If the polling place is a vote center, the election supplies and equipment must include a means to

print each sample ballot which pertains to the election upon request. **Sections 2 and 8** of this regulation define the term “vote center.”

Existing law requires each voting system used by a county or city to provide voting materials in English and certain other languages, as required by federal law or as authorized by the clerk. (NRS 293.2699) Existing regulations provide that, if a procedure for bilingual voting is used in the county or city, each county and city clerk must prepare for each polling place certain required notices in the appropriate foreign language. (NAC 293.225, 293C.140) **Sections 5 and 12** of this regulation provide instead that if a procedure for multilingual voting is used in the county or city, certain notices must be provided in the appropriate foreign languages.

Existing regulations provide that if a difference exists between the number of persons voting and the number of ballots cast in an election, the difference must be reported in writing to the county or city clerk, as applicable, together with any known reasons for the difference. (NAC 293.250, 293C.340) **Sections 6 and 14** of this regulation provide instead that after the close of polls on the day of the election, the election board must determine the total number of: (1) persons who applied to vote and voted in person at the polling place; and (2) ballots cast at the polling place. If a difference exists between those numbers, the difference must be reported to the county or city clerk, as applicable, together with any known reasons for the difference. **Sections 1 and 9** of this regulation provide a similar process for each day of voting during the period for early voting.

Existing law requires the city clerk to appoint and notify registered voters to act as election board officers for the various polling places and precincts in the city. (NRS 293C.220) Existing regulations provide that if an election board of more than three members is required to accommodate the number of registered voters in any precinct, the city clerk may appoint as many additional members as he or she believes are necessary or desirable. (NAC 293C.130) **Section 11** of this regulation provides instead that if an election board of more than three members is required to accommodate the number of registered voters who may vote at a polling place or in any precinct, the city clerk may appoint as many additional members as he or she believes are necessary or desirable.

Existing regulations require that there be an adequate supply, as determined by the city clerk, of voting booths for each precinct. (NAC 293C.390). **Section 15** of this regulation requires instead that there be an adequate supply of voting booths, as determined by the city clerk, for each polling place.

Existing regulations provide that for a city election, if any polling place is closed early because all the voters registered in the precinct have voted, the election board is required to notify the members of the counting board of the closing immediately. (NAC 293C.400) **Section 16** of this regulation provides instead that if any polling place that is not a vote center is closed early because all the voters registered in the precinct have voted, the election board is required to notify the members of the counting board of the closing immediately.

Section 1. Chapter 293 of NAC is hereby amended by adding thereto a new section to read as follows:

1. After the close of voting on each day during the period for early voting, the election officer in charge of a polling place for early voting must determine the total number of:

(a) Persons who applied to vote and voted in person at the polling place on that day; and

(b) Ballots cast at the polling place on that day.

↪ If a difference exists between the numbers determined pursuant to paragraphs (a) and (b), the difference must be reported in writing to the county clerk, together with any known reasons for the difference.

2. The numbers determined pursuant to paragraphs (a) and (b) of subsection 1 must be entered by the election board on the forms provided by the county clerk.

Sec. 2. 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 or her 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 427A.755.

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.

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

8. *“Vote center” means a polling place established by the county or city clerk, as applicable, pursuant to the provisions of NRS 293.3072 to 293.3075, inclusive, or 293C.3032 to 293C.3035, inclusive, as applicable, where any person entitled to vote by personal appearance in the county or city, as applicable, may do so on the day of the election.*

Sec. 3. NAC 293.130 is hereby amended to read as follows:

293.130 Sample ballots for general elections must be prepared in the same manner, quantity and form as sample ballots for primary elections and must be distributed and posted in the same manner. The county clerk shall prepare a sufficient number of explanations of the questions on the ballot so that he or she can mail one with each sample ballot, post one in a conspicuous place in his or her office and post at least two in each ~~precinct~~ *polling place*.

Sec. 4. NAC 293.220 is hereby amended to read as follows:

293.220 1. At least 2 days before any election, the county clerk shall prepare the following supplies for each ~~precinct~~ *polling place*:

- (a) The ~~election~~ roster;
- (b) A quantity of mechanical voting devices which assures an efficient flow of voters;
- (c) A means for transporting ballots and VVPATs which allows the ballots and VVPATs to be secured with a lock and key, numbered seal or other device which prevents unauthorized entry;
- (d) ~~A~~ *If the polling place*:

(1) Is a vote center, a means to print each sample ballot which pertains to the election upon request; or

(2) Is not a vote center, at least three copies of each sample ballot which pertains to the election;

(e) A procedural checklist for election boards; and

(f) One list of the inventory of the supplies provided to the election board.

2. Each county clerk may prepare for the ~~precincts~~ *polling places* any additional supplies he or she considers necessary or desirable for carrying out the election.

Sec. 5. NAC 293.225 is hereby amended to read as follows:

293.225 1. At least 2 days before any election, every county clerk shall prepare the following supplies for each polling place:

(a) One flag of the United States.

(b) Any notices or other materials required to be posted at each polling place pursuant to NRS ~~293.177,~~ *293.184, 293.2045,* 293.2549, 293.2955, 293.301, 293.302, 293.3025, 293.361, 293.740 and 293.780.

(c) ~~One copy of the statutes and regulations governing elections, or one copy of a compilation of the statutes and regulations governing elections.~~

~~(d)~~ If a procedure for ~~bilingual~~ *multilingual* voting is used in the county, the required notices in the appropriate foreign ~~language.~~ *languages.*

2. The county clerk may prepare for each polling place any additional supplies he or she considers necessary or desirable for carrying out the election.

3. On or before the day preceding the day of an election, each county clerk may deliver the election supplies to the sheriff of his or her county or a person designated by the clerk for further

distribution. The election supplies may be delivered in sealed containers and may include any other accountable items. The sheriff or other designated person shall sign a receipt for all of the items received by him or her. The sheriff or other designated person shall immediately, and in a safe manner, distribute the election supplies to those polling places or to those members of election boards who are designated by the county clerk to receive and take custody of the supplies.

4. When an election board accepts delivery of election supplies, it shall check the supplies against the list of inventory and immediately notify the county clerk of any shortage. The county clerk shall immediately correct the shortage.

5. At each polling place within the county, the county clerk shall allow voters to vote their ballots conveniently and in a manner that allows their voting to be ~~screened~~ *protected* from the view of others.

Sec. 6. NAC 293.250 is hereby amended to read as follows:

293.250 1. *After the close of polls on the day of the election, the election board must determine the total number of:*

(a) Persons who applied to vote and voted in person at the polling place; and

(b) Ballots cast at the polling place.

↪ If a difference exists between the ~~number of persons voting and the number of ballots cast,~~ *numbers determined pursuant to paragraphs (a) and (b),* the difference must be reported in writing to the county clerk, together with any known reasons for the difference.

2. The ~~total number of voters~~ *numbers determined pursuant to paragraphs (a) and (b) of subsection 1* must be entered by the election board on the forms provided by the county clerk.

3. The chair of an election board is responsible for the safe delivery of the ballots and VVPATs to the central place designated by the county clerk for the counting of ballots, except that a ballot pick-up board, if established, is responsible for the delivery.

4. After closing the polls, the election board shall compare the quantity of its results cartridges, VVPATs, mechanical recording devices and other essential election supplies which were furnished by the county clerk with the county clerk's inventory, shall note any shortages and shall immediately notify the county clerk if any shortages are noted. The chair of the election board is responsible for the safe return of all supplies, including all records, equipment pertaining to the election and essential election supplies, in accordance with the directions of the county clerk.

Sec. 7. Chapter 293C of NAC is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this regulation.

Sec. 8. *As used in this chapter, "vote center" means a polling place established by the county or city clerk, as applicable, pursuant to the provisions of NRS 293.3072 to 293.3075, inclusive, or 293C.3032 to 293C.3035, inclusive, as applicable, where any person entitled to vote by personal appearance in the county or city, as applicable, may do so on the day of the election.*

Sec. 9. 1. *After the close of voting on each day during the period for early voting, the election officer in charge of a polling place for early voting must determine the total number of:*

(a) Persons who applied to vote and voted in person at the polling place on that day; and

(b) Ballots cast at the polling place on that day.

↪ If a difference exists between the numbers determined pursuant to paragraphs (a) and (b), the difference must be reported in writing to the city clerk, together with any known reasons for the difference.

2. The numbers determined pursuant to paragraphs (a) and (b) of subsection 1 must be entered by the election board on the forms provided by the city clerk.

Sec. 10. NAC 293C.120 is hereby amended to read as follows:

293C.120 Sample ballots for general city elections must be prepared in the same manner, quantity and form as sample ballots for primary city elections and must be distributed and posted in the same manner. The city clerk shall prepare a sufficient number of explanations of the questions on the ballot so that he or she can mail one with each sample ballot, post one in a conspicuous place in the city clerk's office and post at least two in each ~~{precinct}~~ *polling place*.

Sec. 11. NAC 293C.130 is hereby amended to read as follows:

293C.130 1. If an election board of more than three members is required to accommodate the number of registered voters *who may vote at a polling place or* in any precinct, the city clerk may appoint as many additional members as he or she believes are necessary or desirable.

2. The city clerk may permit any member of an election board or any other interested person to attend the school described in NRS 293.227. The city clerk shall, when possible, give preference to persons who have attended the school when appointing members of election boards.

3. After the city clerk's school for chair has been conducted and before the day of the election, each chair shall instruct the members of his or her election board in the procedures to be followed at the election.

Sec. 12. NAC 293C.140 is hereby amended to read as follows:

293C.140 1. At least 2 days before any election, every city clerk shall prepare the following supplies for each polling place:

(a) One flag of the United States.

(b) Any notices or other materials required to be posted at each polling place pursuant to NRS ~~293.177,~~ **293.184, 293.2045,** 293.2549, 293.2955, 293.301, 293.302, 293.3025, 293.361, 293.740 and 293.780.

(c) ~~One copy of the statutes and regulations governing elections, or one copy of a compilation of the statutes and regulations governing elections.~~

~~(d)~~ If a procedure for ~~bilingual~~ **multilingual** voting is used in the city, the required notices in the appropriate foreign ~~language~~ **languages**.

2. The city clerk may prepare for each polling place any additional supplies the city clerk considers necessary or desirable for carrying out the election.

3. On or before the day preceding the day of a city election, each city clerk may deliver the election supplies to a person designated by the city clerk for further distribution. The election supplies may be delivered in sealed containers and may include any other accountable items. The designated person shall sign a receipt for all of the items received. The designated person shall immediately, and in a safe manner, distribute the election supplies to those members of election boards who are designated by the city clerk to receive and take custody of the supplies. The designated person shall obtain a signed receipt from each member of an election board to whom the sealed container or any other accountable item is delivered.

4. When an election board accepts delivery of election supplies, it shall check the supplies against the list of inventory and immediately notify the city clerk of any shortage. The city clerk shall immediately correct the shortage.

5. At each polling place within the city, the city clerk shall provide a quantity of booths that is sufficient to allow voters to vote their ballots conveniently and in a manner that allows their voting to be ~~screened~~ *protected* from the view of others.

6. Each of the booths must, during the election, be provided with the necessary supplies for voting ballots, and must be sufficiently lighted to enable voters to read clearly all of the printing on ballots or ballot page assemblies and to enable members of election boards to perform their duties.

7. Before opening the polls, the members of the election board shall carefully inspect the ballot box to ensure that nothing remains in the ballot box from a previous election. The ballot box must be locked after the inspection, and the key to any lock on the ballot box must be delivered to the chair of the election board or, if there is no lock, the ballot box must be sealed by a seal approved by the Secretary of State. The ballot box must not be opened during the election except as otherwise provided in NRS 293C.625.

Sec. 13. NAC 293C.310 is hereby amended to read as follows:

293C.310 1. At least 2 days before any election, the city clerk shall prepare the following supplies for each ~~precinct~~ *polling place*:

- (a) The ~~election board~~ register;
- (b) Copies of the roster in such a quantity and form as the city clerk determines appropriate;
- (c) A quantity of mechanical voting devices that ensures an efficient flow of voters;
- (d) A container for transporting ballots that is equipped with a lock and key, numbered seal or other device that prevents unauthorized entry;
- (e) ~~A~~ *If the polling place*:

(1) Is a vote center, a means to print each sample ballot which pertains to the election upon request; or

(2) Is not a vote center, at least three copies of each sample ballot that pertains to the election;

(f) A procedural checklist for election boards; and

(g) One list of the inventory of the supplies provided to the election board, including a notation whether the supplies have been inserted into the container for transporting ballots.

2. Each city clerk may prepare for the ~~{preinets}~~ *polling places* any additional supplies he or she considers necessary or desirable for carrying out the election.

Sec. 14. NAC 293C.340 is hereby amended to read as follows:

293C.340 1. *After the close of polls on the day of the election, the election board must determine the total number of:*

(a) Persons who applied to vote and voted in person at the polling place; and

(b) Ballots cast at the polling place.

↪ If a difference exists between the ~~{number of persons voting and the number of ballots cast,}~~ *numbers determined pursuant to paragraphs (a) and (b)*, the difference must be reported in writing to the city clerk, together with any known reasons for the difference.

2. The ~~{total number of voters}~~ *numbers determined pursuant to paragraphs (a) and (b) of subsection 1* must be entered by the election board on the forms provided by the city clerk.

3. The chair of an election board is responsible for the safe delivery of the ballots and VVPATs to the central place designated by the city clerk for the counting of ballots, except that a ballot pick-up board, if established, is responsible for the delivery.

4. After closing the polls, the election board shall compare the quantity of its results cartridges, VVPATs, mechanical recording devices and other essential election supplies that were furnished by the city clerk with the city clerk's inventory, note any shortages and immediately notify the county and city clerk if any shortages are noted. The chair of the election board is responsible for the safe return of all supplies, including all records and equipment pertaining to the election, in accordance with the directions of the city clerk.

Sec. 15. NAC 293C.390 is hereby amended to read as follows:

293C.390 1. There must be an adequate supply, as determined by the city clerk, of voting booths for each ~~{precinct:}~~ *polling place*.

2. The city clerk shall, at least 2 days before the day of any election, prepare the following supplies for each ~~{precinct:}~~ *polling place*:

- (a) The ~~{election board register:}~~ *roster*;
- (b) Copies of the roster in such a quantity and form as the city clerk determines appropriate;
- (c) A container for transporting ballots that is equipped with a lock and key, numbered seal or other device that prevents unauthorized entry;

(d) ~~{At}~~ *If the polling place:*

(1) Is a vote center, a means to print each sample ballot which pertains to the election upon request; or

(2) Is not a vote center, at least three copies of each sample ballot that pertains to the election; and

(e) Such other supplies as are necessary for conducting the election.

3. The city clerk shall print, in plain type, sets of instructions for voters for obtaining and marking their ballots. On the day of an election, the election board shall post at least one set of

instructions in each voting booth and at least three additional sets of instructions at places open to public view in or about the polling place.

4. The chair of each election board shall require the members of the board to prepare the ballots and any other supplies or equipment necessary for voting and may assign specific duties to the members of the election board to complete the preparation.

Sec. 16. NAC 293C.400 is hereby amended to read as follows:

293C.400 1. After all eligible voters have cast their votes, the election board shall, in the following manner, count the number of official ballots it received:

(a) The board shall total the number of voters' signatures recorded in the roster book and enter that number on the ballot statement provided by the city clerk.

(b) The board shall then unlock or unseal the ballot box and count the number of official ballots, comparing this number with the number of signatures recorded on the ballot statement.

(c) The numbers of signatures and ballots should be the same. If they are not, the board shall recount the number of signatures and the number of ballots. If a discrepancy still exists, the board shall make a notation to that effect on the ballot statement.

2. Each member of the counting board must be present in the polling place where the member is to serve not later than the time set for the closing of the polling place. If any polling place *that is not a vote center* is closed early because all of the voters registered in the precinct have voted, the election board shall immediately notify the members of the counting board of the closing.

3. After the polls are closed, the election board shall compare the quantity of its supplies that were furnished by the city clerk with the city clerk's inventory and make a notation upon the inventory of any materials that were lost, used or stolen.

4. After voting is completed, the chair of the election board shall deliver the keys to the ballot boxes to the chair of the counting board.

5. Each chair of a counting board shall assign duties to the members of his or her board in a manner that facilitates the counting of votes. If any person interferes in any way with the counting of the votes, the chair of the counting board shall request a law enforcement officer of the city to remove the person.

6. The members of the counting board shall count and make the record of the votes in the manner prescribed by the city clerk.

7. If the counting board rejects a ballot, it shall place that ballot in a separate envelope, seal the envelope and write upon the envelope the word “Rejected” and the reason for the rejection.

8. Every member of the counting board or the computer program and processing accuracy board as created by the city clerk pursuant to NRS 293C.665 shall sign the copy of the election return that is required by NRS 293C.380 to be posted on the outside of the polling place.

Sec. 17. This regulation becomes effective upon the later of:

1. January 1, 2022; or
2. The date upon which this regulation is filed with the Secretary of State.