

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R100-21

December 20, 2021

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

AUTHORITY: § 1, NRS 293.124, 293.247 and 293.405.

A REGULATION relating to elections; revising provisions related to the withdrawal of a demand for an election recount; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes certain persons to demand and receive a recount of the vote at an election. A person who demands a recount must deposit in advance the estimated costs of the recount. (NRS 293.403) If the person who demanded the recount does not prevail, and it is found that the sum deposited was less than the cost of the recount, the person is required, upon demand, to pay the deficiency to the county clerk, city clerk or Secretary of State, as the case may be. If the sum deposited is in excess of the cost, the excess must be refunded to the person. If the person who demanded the recount prevails, the sum deposited with the Secretary of State, county clerk or city clerk must be refunded to the person. (NRS 293.405)

Existing regulations provide that: (1) a person who demands a recount of votes may withdraw the demand by filing a withdrawal in writing before the completion of the recount; and (2) the county or city clerk must stop the recount as soon as practicable after such a withdrawal is filed. (NAC 293.371) This regulation provides instead that: (1) a person may, before the completion of the recount, file a withdrawal of the demand in writing with the officer with whom the person filed the demand; and (2) each county or city clerk who was conducting the recount must stop the recount as soon as practicable. If it is found that the sum deposited for the purpose of the recount is: (1) less than the cost of the recount at the time of the withdrawal, the person must pay the deficiency to the county clerk, city clerk or Secretary of State, as applicable; or (2) in excess of the cost of the recount at the time of the withdrawal, the excess must be refunded to the person.

Section 1. NAC 293.371 is hereby amended to read as follows:

293.371 1. At the request of the city or county clerk, the Secretary of State will designate a representative to observe a recount of votes.

2. A person who demands a recount of votes may withdraw the demand by filing a withdrawal in writing *with the officer with whom the person filed the demand pursuant to NRS 293.403* at any time before the completion of the recount. ~~{The city or}~~ *Each* county *or city* clerk ~~{shall}~~ *who was conducting the recount must* stop the recount as soon as practicable after the person demanding the recount ~~{notifies the clerk of}~~ *files* the withdrawal of the demand. A person who withdraws a demand for a recount of votes may not request a continuation of the recount or a new recount of those votes.

3. *If a person files a withdrawal of a demand for a recount pursuant to subsection 2, each county or city clerk who was conducting the recount must determine the actual cost incurred before the withdrawal was filed. If the sum deposited for the purpose of the recount:*

(a) Is less than the cost of the recount at the time of the withdrawal, the person shall, upon demand, pay the deficiency to the county clerk, city clerk or Secretary of State, as applicable.

(b) Is in excess of the cost of the recount at the time of the withdrawal, the excess must be refunded to the person.