

Informational Statement

The information required by NRS 233B.066 is provided below:

1. A clear and concise explanation of the need for the adopted regulation.

NRS 293.124 provides the Secretary of State, as the Chief Officer of Elections for the State of Nevada, the authority to adopt such regulations as are necessary to carry out the provisions of title 24 of NRS. The purpose of the proposed regulation is to codify standards and procedures for various election functions. Specifically setting forth requirements for risk-limiting audits of the 2022 Primary and General Elections; and providing other matters properly relating thereto.

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

The Office of the Secretary of State solicited comment on the proposed amendment by posting a notice with links to the full text of the proposed amendment to the LCB Administrative Regulation Notices website, Secretary of State's website, and Nevada Public Notice website as well as posting notices and agendas in numerous public locations pursuant to NRS 233B. The notices were also distributed through the agencies 'eNotifier' application which sent them to approximately 670 individual email addresses.

The Office of the Secretary of State also posted links to all notices and proposed text on the agency Twitter page for both the Secretary of State (@NVSOS) and Elections Division (@NVElect). All 17 county clerks and registrars were given a copy of all notices and proposed text along with the guidance to distribute to anyone who may be interested.

A workshop was held regarding this regulation on January 21, 2022 and the adoption hearing was held on February 3, 2022. The notices, proposed text, and link to the video of the workshop and adoption hearing are posted at the following website:

<https://www.nvsos.gov/sos/elections/election-information/elections-regulations>

Written comments received prior to each adoption hearing are available upon request.

Comments received generally called for the elimination of all proposed regulations including this one. Comments that were specific to this regulation and that were received during the workshop generally conflicted with requirements set forth in the Nevada Constitution or NRS.

Additional comments regarding this proposed regulation called for a reduction in the percentage of the Risk Limiting Audit (RLA) from a proposed 5% to either 1% or 0.5%. During agency research leading up to the development of this proposed regulation, staff looked closely at other states who already conduct risk limiting audits. The normal starting point for a pilot RLA is 10-13% and then is reduced as the county and state work through the process. Starting with a 5% RLA allows the county to develop organizational practices and to modify their existing RLA plan based on lessons learned. As the process improves, the percentage will likely be reduced during future regulatory reviews.

Other comments requested increased opportunity for public observation which will be included in future regulations as the pilot RLA process draws to a close.

3. The number of persons who: (1) Attended each hearing; (2) Testified at each hearing; and (3) Submitted to the agency written statements.

Workshop date: January 19, 2020 *While this regulation was not addressed during this workshop, most written statements covered numerous regulations including this one.

- (a) Number in attendance: 25
- (b) Number testifying: 19
- (c) Written statements submitted: 60

Workshop date: January 20, 2020 *While this regulation was not addressed during this workshop, most written statements covered numerous regulations including this one.

- (a) Number in attendance: 31
- (b) Number testifying: 18
- (c) Written statements submitted: 33

Workshop date: January 21, 2020

- (a) Number in attendance: 19
- (b) Number testifying: 17
- (c) Written statements submitted: 26

Adoption Hearing date: February 3, 2020

- (a) Number in attendance: 20
- (b) Number testifying: 13
- (c) Written statements submitted: 164

4. For each person identified in subparagraphs (2) and (3) of paragraph (c), the following information if provided to the agency conducting the hearing: (1) Name; (2) Telephone number; (3) Business address; (4) Business telephone number; (5) Electronic mail address; and (6) Name of entity or organization represented.

Please see the attached spreadsheet for details.

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

Written comments were not solicited from businesses as the proposed regulation does not affect businesses.

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

Comments generally called for the elimination of all proposed regulations. This proposed regulation was adopted without change because it is a measured step in the development of regulations relating to Risk Limiting Audits. The SOS and counties are still currently conducting pilot Risk Limiting Audits. Section 37.7 of AB422 (1) requires the Secretary of State to develop a pilot program for conducting a risk-limiting audit of the results of the 2022 general election; and (2) authorizes the Secretary of State to require each county clerk to participate in the pilot program and conduct a risk-limiting audit of the results of the 2022 general election.

The regulation was updated to include, "Effective January 1, 2024, within 15 days following completion of the risk-limiting audit conducted pursuant to NRS 293.394, the county clerk shall remit to the Secretary of State the results of such audit and the Secretary of State shall, within 10 days of receiving such information from the county clerk, post the results of all audits on the Secretary of State website". As for public observation, there are plans to develop further guidance through regulations once the pilots are completed.

7. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include: (1) Both adverse and beneficial effects; and (2) Both immediate and long-term effects.

These regulations do not create an economic effect on either Nevada businesses or the public. These regulations relate to the conduct of Nevada elections and, as such, do not create an adverse or beneficial economic impact in either the immediate or long-term.

8. The estimated cost to the agency for enforcement of the proposed regulation.

There is no anticipated cost related to the enforcement of the proposed regulation.

9. A description of any regulations of other state or government agencies which 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.

The proposed regulation does not overlap or duplicate any other regulations of another state or government agency.

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

This regulation does not include provisions which are more stringent than a federal regulation which regulates the same activity.

11. 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 the money will be used.

This regulation does not provide a new fee or increase an existing fee.

Workshop January 19, 2022	Workshop January 20, 2022	Workshop January 21, 2022	Adoption Hearing February 2, 2022	Adoption Hearing February 3, 2022
Mark Wlaschin - SOS (Host)	Mark Wlaschin - SOS (Host)	Mark Wlaschin - SOS (Host)	Mark Wlaschin - SOS (Host)	Mark Wlaschin - SOS (Host)
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