

NEVADA

CAMPAIGN FINANCE AND BALLOT MEASURE GUIDE

These resources are current as of 9/14/10: We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at advocacy@afj.org.

Some information presented in this resource may have been modified by the Supreme Court decision in Citizens United v. FEC (January 21, 2010), particularly with respect to state laws prohibiting independent expenditures or electioneering communications by corporations. Please visit AFJ's [Citizens United: What Now?](#) section of our website for additional information.

This guide summarizes key aspects of state campaign finance law and regulations. It is not intended to provide legal advice or to serve as a substitute for legal advice

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

CONTRIBUTION LIMITS AND SOURCE RESTRICTIONS

Limits are per-election, with the primary and general elections counting separately.

	To Candidates			To Committees		
	Statewide	Legislative	Local	Political Committees	Parties	Ballot Measures
From:						
Individuals	\$5,000	\$5,000	\$5,000	Unlimited	Unlimited	Unlimited
PACs	\$5,000	\$5,000	\$5,000	Unlimited	Unlimited	Unlimited
Corporations and unions	\$5,000	\$5,000	\$5,000	Unlimited	Unlimited	Unlimited

N.R.S. § 294A.100.

Timing of Contributions:

- An individual, PAC or entity may give a candidate \$5,000 for the primary election and \$5,000 for the general election. The contribution timeframe for state, district, county and township offices begins 30 days before the regular session of the Legislature, and ends 30 days before the next regular session of the Legislature following the election. In the case of city offices, the contribution cycle begins 30 days after the last election for the office and ends 30 days before the next general city election for the office. N.R.S. § 294A.100.

Candidates Without a Primary:

- If a candidate does not have a primary election, he or she is still able to receive an aggregate of \$10,000 in contributions. N.R.S. § 294A.100

In-Kind Contributions:

- In-kind contributions are the value of services provided in kind for which money would have otherwise been paid. N.R.S. § 294A.007.
 - Within 30 days of providing any in-kind goods or services, a donor must provide the recipient a signed statement setting forth the actual cost of the goods and services provided, or their fair market value. N.A.C. § 294A.043.

Contributions During Legislative Sessions:

- The following officials may not solicit or accept contributions during the period beginning 30 days before a regular legislative session, and concluding 30 days following a regular session: legislators, the governor, governor-elect, lieutenant governor and lieutenant governor elect. This restriction does not apply to candidates for those offices who are not currently office-holders. N.R.S. § 294A.300.
- If a special legislative session is called, the legislators, governor, governor-elect, lieutenant governor and lieutenant governor-elect may not receive or solicit contributions during the period beginning the day after the governor issues a proclamation calling for a session and ending 15 days after the adjournment of the special session. N.R.S. § 294A.300.
- Organizations providing primary support for legislators, such as a legislative caucus, follow these restrictions as well. N.R.S. § 294A.310.

Judicial Candidates:

- In 2007 the Nevada Supreme Court amended Canon 5C(3) of the *Nevada Code of Judicial Conduct* to prohibit the solicitation of fundraising in any Supreme Court, district court or justice court race by a candidate unless the race is contested. Based on these changes contributions are limited in certain circumstances. Judicial candidates who are not opposed in an election must not solicit or accept contributions. If a candidate's opponent files but then withdraws, the candidate is deemed unopposed effective upon the withdrawal date and must not solicit or accept contributions after such time. If a candidate does have opposition then he or she may solicit and accept contributions after 5 p.m. on the last day of filing through the duration of 90 days following the election in which the candidate participates.
- Municipal Judicial Candidates – Candidates running exclusively for municipal court may accept contributions no earlier than 120 days before the primary election through 90 days following the election in which the candidate participates.
- Campaign and Expense Report Filing - Political Parties and Committees, and Political Action Committees (PAC's), and Persons [including corporations (not under candidate(s)' direction and control)], must file a contribution and expense report with the recipient Candidate(s) or Incumbent's filing officer on or before the appropriate due date whenever they have made a contribution to an Incumbent, Candidate, or Group of Candidates.

COMMUNICATIONS

Issue Advocacy vs. Express Advocacy:

- The statutes contain no definition of express advocacy or what is not. According to the Secretary of State's office, the initial threshold is to look at money tied to advocacy to determine a reporting requirement.
- The Secretary of State's office stated that meeting the threshold of PAC statutes triggers enforcement of BAGs. They noted that this creates a loophole if BAGs do not register with SOS. 294A.420
- The Secretary of State's office has indicated it is their future intention to require BAGs to report in a fashion similar to the current standards for PACs (before the current financial trigger).
- Nevada does not have a strict application of magic words. The Secretary

of State's office has nothing written on express advocacy or the *Furgatch* standard.

Membership Communications:

- Organizations may make express-advocacy communications to their members without reporting those activities as expenditures or in-kind contributions if there are no expenditures.

Independent Expenditures:

- Although the law does not specifically define "independent expenditure," it does set reporting requirements expenditures by a "person who is not under the direction or control of a candidate," if the expenditures are "not solicited or approved by the candidate...." See Nev. Rev. Stat. § 294A.210(1). A corporation making such an expenditure must itemize all donations received from contributors whose contributions total more than \$100 during the reporting period. *Id.* at §§ 294A.140, .210. Informal advice from the Secretary of State's Office indicates that a nonprofit organization that does not solicit money specifically for the purpose of influencing a Nevada election need not report every contribution it receives; rather, it may report only contributions equal to its Nevada expenditures.

Electioneering Communication:

- There are no regulations or other restrictions of electioneering communication mentioning candidates immediately before an election.

Disclaimers:

- The disclaimer line in Nevada has been found unconstitutional (378 *Federal 3rd 979, 9th Circuit 2004*). The court found the right to anonymous political speech extends to groups and other social and business organizations who want to anonymously disseminate messages.

REGISTRATION AND REPORTING REQUIREMENTS

- A Committee for Political Action ("PAC") is any group of individuals or an entity that receives contributions for other people, groups or entities and:
 1. makes or intends to make a contribution to candidate or other person; or
 2. makes or intends to make an expenditure designed to affect the outcome of any primary, general or special election or question on the ballot. N.R.S. § 294A.0055.

- The term “Committee for Political Action” does not include:
 - An individual person;
 - A corporation or other business organization that has filed articles of incorporation or other documentation of organization with the Secretary of State; or
 - A labor union.
 N.R.S. § 294A.0055.

Registration for Nonprofits:

- A nonprofit corporation shall submit the names, addresses and telephone numbers of its officers to the Secretary of State before it engages in any of the following activities that are designed to affect the outcome of any primary general or special election or question on the ballot in the state:
 - Soliciting or receiving contributions from any other person, group or entity;
 - Making contributions to candidates or other persons; or
 Making expenditures, designed to affect the outcome of any primary, general or special election or question on the ballot. NRS

Form for Nonprofits:

<http://secretaryofstate.biz/elections/party/pdf/NonProfitCorpRegForm.pdf>

PAC Registration:

- PACs must register with the Secretary of State prior to engaging in any activity. Furthermore, an amended registration form must be filed within 30 days after any change to the required information. N.R.S. § 294A.238. The PAC registration form is available at <http://www.sos.state.nv.us/elections/party/pdf/PACRegForm.pdf>
- The registration must include the full name of the committee; purpose; names, address and telephone numbers of its officers; the committee’s affiliation with any other organizations; name, address and telephone number of the resident and the group representative. N.R.S. § 294A.230. More information regarding PAC registration can be found at: <http://www.sos.state.nv.us/elections/party/pdf/PACRegForm.pdf>
- A notice must be filed with the Secretary of state if the committee stops engaging in political activities. N.R.S. § 294A.110.
- The committee must appoint and maintain an individual who is a Nevada resident as the PAC’s registered agent. N.R.S. § 294A.240, but there is no need to have an in-state bank account or in-state treasurer.

- There is no indication in statute that PACs need an in-state bank account or in-state resident as the treasurer.

PAC Reporting:

- **Political Action Committee Contribution Reporting Requirements**

The reporting deadline requirements for certain persons, entities or political organizations that make expenditures of a candidate or group of candidates can be found pursuant N.R.S. § 294A.140.

The reporting requirements for person or group of persons, including business entities, that are advocating the passage or defeat of a ballot question can be found pursuant NRS § 294A.150.

Reports must be received no later than midnight on the deadline set forth by the statute for submittal. Submission of the form can be made in person, via facsimile, by mail or electronic means. A report is deemed filed by the office on the date it is received by the filing officer by mail, fax, in person or electronic means. The exception would be if certified mail is used, and in that case the postmark date shall be the filing date, (NRS § 294A.140 and § 294A.150).

The Secretary of State is prohibited from requesting or requiring lists of expenditures or campaign expenses of a candidate, person, group of persons, committee, political party or business entity for such expenses of \$100 or less, (NRS § 294A.382).

- **What are the reporting dates?**

N.R.S. § 294A.140 & 294A.210. Every committee that makes an expenditure on behalf of a candidate for the primary election, primary city election, general election or general city election files a report seven days before the primary election, seven days before the general elections and the 15th or 2nd month following the general election. N.R.S. § 294A.140 & 294A.210.

The complete schedule for filing for the 2008 Election calendar can be accessed by linking at:

<http://www.sos.state.nv.us/elections/nvelection/pdf/2008/2008PacElectionCalendar.pdf>

A PAC must report all campaign contribution in excess of \$100 received during the period and contributions received during the period from a contributor which cumulatively exceed \$100. N.R.S. § 294A.140 and 294A.210. Furthermore, the Secretary of State shall not request a list of

each expenditure or campaign expense of \$100 or less on the designed form. N.R.S. § 294A.382.

- **Are donors' employers and occupations disclosed? Must all out-of-state donors be reported?**

The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of \$100 since the beginning of the current reporting period. N.R.S. § 294A.140.

- **Is there 24-hour reporting for large contributions or for activity during the final days of the campaign?**

Contribution and Expense report #2 is to be submitted seven days prior to the general election or general city election. N.R.S. § 294A.140.

- **What about nonfederal PACs that either are registered in another state or that file reports with the IRS – must those register and file Nevada reports, or may they just submit the out-of-state reports?**

Each political action committee that engages in any activity in Nevada must first register with the Secretary of State on the forms supplied, prior to engaging in such activity. N.R.S. § 294A.230.

BALLOT MEASURES

Each person or group of people that are required to report compensation to individuals shall submit the report prescribed by the Secretary of State within 15 days after the petition is submitted for the verification of signatures. NAC 294A.140.

Because of the vague nature of this regulation, the Secretary of State's office is looking to repeal the PAC reporting schedule and amend the regulation. Again, meeting the threshold of PAC statutes triggers enforcement of BAGs. NAC 294A.420

ENFORCEMENT AND PENALTIES

Reporting of alleged violations; institution of court proceedings:

- If it appears that the provisions of this chapter have been violated, the Secretary of State may:

(a) Conduct an investigation concerning the alleged violation and cause the appropriate proceedings to be instituted and prosecuted in the First Judicial District Court; or

(b) Refer the alleged violation to the Attorney General. The Attorney General shall investigate the alleged violation and institute and prosecute the appropriate proceedings in the First Judicial District Court without delay. N.R.S. § 294A.410.

- A person who believes that any provision of this chapter has been violated may notify the Secretary of State, in writing, of the alleged violation. The notice must be signed by the person alleging the violation and include any information in support of the alleged violation.

Enforcement: Institution of court proceedings; civil penalty; limitation and waiver of civil penalty:

- If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.283, 294A.286, 294A.360 or 294A.377 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.
- Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.283, 294A.286, 294A.300, 294A.310, 294A.360 or 294A.377 is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.
- If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:
 - (a) If the report is not more than 7 days late, \$25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

- A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.
- For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:
 - (a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and
 - (b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.
- Penalties can be waived for a good cause and can allow a reduction in the penalty and negotiate a settlement.

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

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FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

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