

Sincerely,

BRIAN MCKAY, *Attorney General*

By PATRICIA A. LYNCH, *Deputy Attorney General*

OPINION NO. 85-8 Campaign Practices; Candidates—Candidates for public office are required to file all three of the contribution and expense reports required by [NRS 294A.010\(1\)\(a\)-\(c\)](#) and [294A.020\(1\)\(a\)-\(c\)](#), respectively. This duty to file all three reports is not conditioned on the candidate’s success in the primary election.

CARSON CITY, June 21, 1985

THE HONORABLE MILLS LANE, *Washoe County District Attorney*, Washoe County Courthouse,
P.O. Box 11130, Reno, Nevada 89520

Attention: CASSANDRA D. CAMPBELL, *Deputy District Attorney*

DEAR MR. LANE:

You have requested our interpretation of two provision of the election campaign practices law, Chapter 294A of the Nevada Revised Statutes. Your specific request is concerned with the provisions of [NRS 294A.010](#) and [294A.020](#).

QUESTION

Do [NRS 294A.010](#) and [294A.020](#) require a candidate to file reports of contributions and expenditures for the period specified in subsections (1)(c) of each section thirty (30) days after the general election, for the period spanning the twenty (20) days immediately preceding the date of the general election, if in fact the candidate lost at the primary election?

ANALYSIS

Your office is considering the prosecution of two former candidates for public office who failed to file reports of their campaign contributions and expenses as required by the election campaign practices chapter. The two politicians were “candidates” required to file as defined in [NRS 294A.005](#) in that they filed declarations of candidacy with the Washoe County Registrar of Voters. [NRS 294A.031](#) requires that the reports referred to in [NRS 294A.010](#) and [294A.020](#) shall be filed even though the candidate has withdrawn his candidacy, received no campaign contributions or has no campaign expenses. [NRS 294A.010](#) and [294A.020](#) require a candidate to file reports of contributions and expenditures for the period specified in subsections (1)(c) of each statute. That time period prescribed in the subsections covers the period spanning the twenty (20) days immediately preceding the date of the general election. Reports of contributions and expenditures for this period must be filed no later than thirty (30) days after the general election.

Your office is uncertain if this particular reporting period is applicable to a candidate who loses at the primary election. Your uncertainty on this issue stems from the presence of certain language contained in subsections (1)(b) of [NRS 294A.010](#) and [294A.020](#). That language requires a candidate to file the statutorily prescribed reports “whether or not the candidate won

the primary election.” This language is absent from subsections (1)(c) of [NRS 294A.010](#) and [294A.020](#). Your concern is whether the difference in language between the two subsections in each section relieves a candidate from the obligation of filing the reports required for the third reporting period as prescribed in subsections (1)(c) of [NRS 294A.010](#) and [294A.020](#).

Your question presents an issue of statutory interpretation of [NRS 294A.010](#) and [294A.020](#) which has not been addressed by our State Supreme Court. However, the willful violation of [NRS 294A.010](#) and [294A.020](#) is punishable as a gross misdemeanor. Both statutes are penal in nature and must be strictly construed. *Sheriff v. Lugman*, [101 Nev. 149](#), 697 P.2d 107 (1985). However, strict construction does not require emasculation of the legislative purpose. *See Pease v. Taylor*, [88 Nev. 287](#), 296 P.2d 757 (1972).

When presented with a question of statutory interpretation, the intent of the Legislature is the controlling factor and, if the statute under consideration is clear on its face, a court cannot go beyond the statute in determining legislative intent. However, if the statute is ambiguous, it can be construed in line with what reason and public policy would indicate the Legislature intended. *Robert E. v. Justice Court*, [99 Nev. 443](#), 445, 664 P.2d 957 (1983). Our State Supreme Court has concluded that the provisions of the election campaign practices chapter serve the important informative and deterrent functions of insuring that the voters are fully informed and achieving, through publicity, the maximum deterrence to corruption and undue influence. *Arvey v. Sheriff*, [93 Nev. 468](#), 471, 567 P.2d 470 (1977).

The wording of [NRS 294A.010](#) and [294A.020](#) indicates that a candidate is under a mandatory duty to file all three reports specified in subparagraphs (a) to (c), inclusive, of subsection 1 of both sections. We can find no words which we believe condition in any way a candidate’s obligation to file the third report required by each statute upon that candidate’s success in the primary election. Our review of the regulations promulgated by the Secretary of State for the implementation and administration of the election campaign practices chapter does not disclose any rule which would relieve an unsuccessful primary election candidate from filing all thereof the contribution and expense reports required by [NRS 294A.010\(1\)\(a\)-\(c\)](#) and [294A.020\(1\)\(a\)-\(c\)](#), respectively. On the contrary, the form prescribed by the Secretary of State to be signed by all candidates as acknowledgment by them of receipt of the three reporting forms and the regulations of the secretary relating thereto declares, “I understand I must file the prescribed forms by the specified statutory date for each reporting period.” This administrative construction of the statute by the agency of government charged with its administration is entitled to considerable weight when such construction is intended to advance the purposes of the statute. *Oliver v. Spitz*, [76 Nev. 5](#), 10, 348 P.2d 158 (1960). Since candidates often receive additional contributions and make campaign expenditures after losing the primary election, requiring them to file the third report for the time immediately before the general election continues to advance the important informative and deterrent functions of these laws as noted by our supreme court in *Arvey v. Sheriff, supra*.

CONCLUSION

The provisions of [NRS 294A.010\(1\)\(c\)](#) and [294A.020\(1\)\(c\)](#) disclose that the wording of both places a mandatory duty on any candidate to file the third report of contributions and expenses thirty (30) days after the general election for the period spanning the twenty (20) days immediately preceding the date of the general election. This duty is not conditioned on the candidate’s success in the primary election. This interpretation fosters the disclosure of campaign contribution and expense information which ensures that the informative and deterrent functions of the election campaign practices chapter are effectuated.

Sincerely