

ASSEMBLY BILL NO. 407—ASSEMBLYMEN
HICKEY AND KIRKPATRICK

MARCH 18, 2013

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing residency requirements for candidates for public office. (BDR 23-606)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to public officers; revising provisions relating to residency requirements with reference to eligibility for public office; prohibiting a district court from issuing a declaratory judgment determining a question of residency of a candidate for certain offices after a certain date; revising provisions governing the contest of a general election for the office of State Legislator; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a person’s “actual residence” for the purpose of eligibility
2 to be a candidate for and hold elective public office is the place where the person is
3 legally domiciled and maintains a permanent habitation. If the person maintains
4 more than one such habitation, the place the person declares as his or her
5 principal permanent habitation when declaring or accepting candidacy is deemed to
6 be his or her actual residence. Existing law provides a district court with
7 jurisdiction to determine a question of residency in an action for declaratory
8 judgment. (NRS 281.050)

9 **Section 1** of this bill removes: (1) the provision regarding legal domicile and
10 permanent habitation constituting “actual residency”; and (2) the provision
11 authorizing a person with multiple habitations to declare an actual residence when
12 declaring or accepting candidacy for public office. Instead, a person’s residence is
13 deemed to be that place where the person has been actually, physically and
14 corporeally within the State. **Section 1** also provides that a district court does not
15 have jurisdiction in an action to determine the residency of candidates for the
16 Legislature or certain state offices after the statutory deadline for making a change
17 to the ballot for a general election, which is the fourth Friday in June of the year of
18 the general election. (NRS 293.165, 293.166)



* A B 4 0 7 R 1 *

19 **Section 3** of this bill provides that, for a state officer who can be removed from
20 office only through impeachment pursuant to Article 7 of the Nevada Constitution,
21 ceasing to reside in the State or, for a certain type of judicial officer, in the district
22 in which he or she is required to reside to be a candidate for the judicial office, is
23 malfeasance for the purposes of impeachment.

24 **Section 4** of this bill clarifies that a person who receives a certificate of election
25 or appointment to office as a Legislator may be removed from office by reason of
26 not residing in the district from which he or she is a Legislator only through
27 expulsion from the Legislator's own House pursuant to **Section 6** of Article 4 of the
28 Nevada Constitution, except that the election of a person to office as a Legislator
29 may be contested on the grounds that the person does not reside in the district from
30 which he or she is a Legislator pursuant to provisions regarding the contest of
31 elections. (NRS 293.407-293.435)

32 **Section 14** of this bill provides that in a contest of a general election for the
33 office of Assemblyman, Assemblywoman or Senator, if the house in which the
34 contest was tried or was to be tried finds that the contest or defense of the contest
35 was brought or maintained without reasonable ground or to harass the prevailing
36 party, the house may require the party who is not the prevailing party to pay costs,
37 attorney's fees or both, not to exceed certain amounts.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 281.050 is hereby amended to read as follows:

2 281.050 1. The residence of a person with reference to
3 eligibility to office is ~~{the person's actual residence}~~ *that place*
4 *where the person has been actually, physically and corporeally*
5 within the State or county or district, as the case may be, during all
6 the period for which residence is claimed by the person. If any
7 person absents himself or herself from the jurisdiction of that
8 person's residence with the intention in good faith to return without
9 delay and continue such residence, the period of absence must not
10 be considered in determining the question of residence.

11 2. If a person who has filed as a candidate for elective office
12 moves the person's residence out of the State, county, district, ward,
13 subdistrict or any other unit prescribed by law for which the person
14 is a candidate and in which the person is required ~~{actually, as~~
15 ~~opposed to constructively,}~~ to reside, a vacancy is created thereby
16 and the appropriate action for filling the vacancy must be taken. A
17 person shall be deemed to have moved the person's residence for the
18 purposes of this section if:

19 (a) The person has acted affirmatively to remove himself or
20 herself from one place; and

21 (b) The person has an intention to remain in another place.

22 3. ~~{The}~~ *Except as otherwise provided in subsection 4, the*
23 district court has jurisdiction to determine the question of residence
24 in an action for declaratory judgment.



1 4. ~~{As used in this section, “actual residence” means the place~~
2 ~~where a person is legally domiciled and maintains a permanent~~
3 ~~habitation. If the person maintains more than one such~~
4 ~~habitation, the place the person declares to be the person’s~~
5 ~~principal permanent habitation when filing a declaration or affidavit~~
6 ~~pursuant to NRS 293.177 or 293C.185 shall be deemed to be the~~
7 ~~person’s actual residence.}~~ *A district court does not have*
8 *jurisdiction in an action to determine the residency of a candidate*
9 *for:*

10 (a) *The office of Assemblyman, Assemblywoman or State*
11 *Senator; or*

12 (b) *State office if the holder of the office is removable from*
13 *office only through impeachment pursuant to Article 7 of the*
14 *Nevada Constitution,*

15 *↪ after the deadline set forth in NRS 293.165 and 293.166 for*
16 *making a change on the ballot for a general election.*

17 **Sec. 2.** NRS 283.040 is hereby amended to read as follows:

18 283.040 1. Every office becomes vacant upon the occurring
19 of any of the following events before the expiration of the term:

20 (a) The death or resignation of the incumbent.

21 (b) The removal of the incumbent from office.

22 (c) The confirmed insanity of the incumbent, found by a court of
23 competent jurisdiction.

24 (d) A conviction of the incumbent of any felony or offense
25 involving a violation of the incumbent’s official oath or bond or a
26 violation of NRS 241.040, 293.1755 or 293C.200.

27 (e) A refusal or neglect of the person elected or appointed to
28 take the oath of office, as prescribed in NRS 282.010, or, when a
29 bond is required by law, a refusal or neglect of the person to give the
30 bond within the time prescribed by law.

31 (f) Except as otherwise provided in NRS 266.400, the ceasing of
32 the incumbent to be ~~{an actual, as opposed to constructive,}~~ *in*
33 *accordance with the provisions of NRS 281.050, a resident of the*
34 *State, district, county, city, ward or other unit prescribed by law in*
35 *which the duties of the incumbent’s office are to be exercised, or*
36 *from which the incumbent was elected or appointed, or in which the*
37 *incumbent was required to reside to be a candidate for office or*
38 *appointed to office.*

39 (g) The neglect or refusal of the incumbent to discharge the
40 duties of the incumbent’s office for a period of 30 days, except
41 when prevented by sickness or absence from the State or county, as
42 provided by law. In a county whose population is less than 15,000,
43 after an incumbent, other than a state officer, has been prevented by
44 sickness from discharging the duties of the incumbent’s office for at
45 least 6 months, the district attorney, either on the district attorney’s



1 own volition or at the request of another person, may petition the
2 district court to declare the office vacant. If the incumbent holds
3 the office of district attorney, the Attorney General, either on the
4 Attorney General's own volition or at the request of another person,
5 may petition the district court to declare the office vacant. The
6 district court shall hold a hearing to determine whether to declare
7 the office vacant and, in making its determination, shall consider
8 evidence relating to:

9 (1) The medical condition of the incumbent;

10 (2) The extent to which illness, disease or physical weakness
11 has rendered the incumbent unable to manage independently and
12 perform the duties of the incumbent's office; and

13 (3) The extent to which the absence of the incumbent has had
14 a detrimental effect on the applicable governmental entity.

15 (h) The decision of a competent tribunal declaring the election
16 or appointment void or the office vacant.

17 (i) A determination pursuant to NRS 293.182 or 293C.186 that
18 the incumbent fails to meet any qualification required for the office.

19 2. Upon the happening of any of the events described in
20 subsection 1, if the incumbent fails or refuses to relinquish the
21 incumbent's office, the Attorney General shall, if the office is a state
22 office or concerns more than one county, or the district attorney
23 shall, if the office is a county office or concerns territory within one
24 county, commence and prosecute, in a court of competent
25 jurisdiction, any proceedings for judgment and decree declaring that
26 office vacant.

27 3. The provisions of this section do not apply to the extent that
28 they conflict or are otherwise inconsistent with any provision of the
29 Constitution of the State of Nevada regarding the power to judge of
30 the qualifications, elections and returns of or to punish, impeach,
31 expel or remove from office the Governor, other state and judicial
32 officers or State Legislators.

33 **Sec. 3.** NRS 283.140 is hereby amended to read as follows:

34 283.140 1. Any state officer shall be liable to impeachment
35 for misdemeanor or malfeasance in office pursuant to Article 7 of
36 the Nevada Constitution. *A state officer who is not a judicial*
37 *officer commits malfeasance in office for the purposes of Article 7*
38 *of the Nevada Constitution by ceasing to reside in this State in*
39 *violation of the provisions of NRS 281.050, and a judicial officer*
40 *other than a justice of the peace commits malfeasance in office for*
41 *the purposes of Article 7 of the Nevada Constitution by ceasing to*
42 *reside in the district in which he or she is required to reside to be a*
43 *candidate for the judicial office in violation of the provisions of*
44 *NRS 281.050.*



1 2. As used in NRS 283.140 to 283.290, inclusive, “state
2 officer” means the Governor and other state and judicial officers,
3 except:

4 (a) Justices of the peace; and

5 (b) State Legislators removable from office only through
6 expulsion by their own House pursuant to Section 6 of Article 4 of
7 the Nevada Constitution.

8 **Sec. 4.** Chapter 218A of NRS is hereby amended by adding
9 thereto a new section to read as follows:

10 *1. Except as otherwise provided in subsection 2, a person who*
11 *receives a certificate of election or appointment to office as a*
12 *Legislator may be removed from office by reason of not residing in*
13 *the district for which the person is a Legislator, in violation of*
14 *the provisions of NRS 281.050, only through expulsion by the*
15 *Legislator’s own House pursuant to Section 6 of Article 4 of the*
16 *Nevada Constitution.*

17 *2. The election of a person to office as a Legislator may be*
18 *contested pursuant to NRS 293.407 to 293.435, inclusive, on the*
19 *grounds that the person does not reside in the district for which*
20 *the person is a Legislator, in violation of the provisions of*
21 *NRS 281.050.*

22 **Sec. 5.** NRS 218A.200 is hereby amended to read as follows:

23 218A.200 A person is not eligible to be elected or appointed to
24 office as a Legislator unless the person:

25 1. Is a qualified elector;

26 2. Has been ~~{an actual, as opposed to constructive,}~~ *, in*
27 *accordance with the provisions of NRS 281.050, a citizen resident*
28 *of this State for 1 year next preceding the person’s election or*
29 *appointment; and*

30 3. At the time of election or appointment, has attained the age
31 of 21 years.

32 **Sec. 6.** NRS 218A.260 is hereby amended to read as follows:

33 218A.260 1. If a vacancy occurs in the office of a Legislator
34 during a regular or special session or at a time when no biennial
35 election or regular election at which county officers are to be elected
36 will take place between the occurrence of the vacancy and the next
37 regular or special session, the vacancy must be filled in the manner
38 provided in this section.

39 2. If the former Legislator was elected or appointed from a
40 district wholly within one county, the board of county
41 commissioners of the county in which the district is located shall fill
42 the vacancy by appointing a person who is a member of the same
43 political party as the former Legislator and who ~~{actually, as~~
44 ~~opposed to constructively,}~~ *, in accordance with the provisions of*
45 *NRS 281.050, resides in the district.*



1 3. If the former Legislator was elected or appointed
2 from a district comprising more than one county, the county
3 commissioners of each county within or partly within the district
4 shall fill the vacancy by appointing a person who is a member
5 of the same political party as the former Legislator and who
6 ~~factually, as opposed to constructively,~~ *in accordance with the*
7 *provisions of NRS 281.050*, resides in the district. To fill the
8 vacancy:

9 (a) Each board of county commissioners shall first meet
10 separately and determine the single candidate it will nominate to fill
11 the vacancy.

12 (b) The boards shall then meet jointly. The joint meeting must
13 be chaired by the person who is the chair of the board of county
14 commissioners of the county with the largest population in the
15 district. At the joint meeting:

16 (1) The chair of each board, on behalf of that board, shall
17 cast a proportionate number of votes according to the percent,
18 rounded to the nearest whole percent, which the population of that
19 board's county is of the population of the entire district. Populations
20 must be determined by the last decennial census or special census
21 conducted by the Bureau of the Census of the United States
22 Department of Commerce.

23 (2) The person who receives a plurality of these votes is
24 appointed to fill the vacancy. If no person receives a plurality of the
25 votes, the boards of county commissioners of the respective counties
26 shall each select a candidate, and the appointee must be chosen by
27 drawing lots among the candidates so selected.

28 4. The board of county commissioners or the board of the
29 county with the largest population in the district shall issue a
30 certificate of appointment naming the appointee. The county clerk
31 or the clerk of the county with the largest population in the district
32 shall give the certificate to the appointee and send a copy of the
33 certificate to the Secretary of State.

34 **Sec. 7.** NRS 218A.700 is hereby amended to read as follows:

35 218A.700 1. Except as otherwise provided in this section,
36 when the Legislature or a member thereof discharges a duty or
37 exercises a power conferred by law to appoint a person to a new
38 term or to fill a vacancy on a board, commission, committee,
39 council, authority or similar body, the appointing authority
40 shall appoint a person who has, in accordance with the provisions of
41 NRS 281.050, ~~factually, as opposed to constructively,~~ resided, for
42 at least 6 months immediately preceding the date of the
43 appointment:

44 (a) In this State; and



1 (b) If current residency in a particular county, district, ward,
2 subdistrict or any other unit is prescribed by the provisions of law
3 that govern the position, also in that county, district, ward,
4 subdistrict or other unit.

5 2. The provisions of subsection 1 do not apply if:

6 (a) A requirement of law concerning another characteristic or
7 status that a member must possess, including, without limitation,
8 membership in another organization, would make it impossible to
9 fulfill the provisions of subsection 1; or

10 (b) The membership of the particular board, commission,
11 committee, council, authority or similar body includes residents of
12 another state and the provisions of subsection 1 would conflict with
13 a requirement that applies to all members of that body.

14 **Sec. 8.** NRS 223.195 is hereby amended to read as follows:

15 223.195 1. Except as otherwise provided in this section,
16 when the Governor discharges a duty or exercises a power conferred
17 by law to appoint a person to a new term or to fill a vacancy on a
18 board, commission, committee, council, authority or similar body,
19 the Governor shall appoint a person who has, in accordance with the
20 provisions of NRS 281.050, ~~actually, as opposed to constructively,~~
21 resided, for at least 6 months immediately preceding the date of the
22 appointment:

23 (a) In this State; and

24 (b) If current residency in a particular county, district, ward,
25 subdistrict or any other unit is prescribed by the provisions of law
26 that govern the position, also in that county, district, ward,
27 subdistrict or other unit.

28 2. The provisions of subsection 1 do not apply if:

29 (a) A requirement of law concerning another characteristic or
30 status that a member must possess, including, without limitation,
31 membership in another organization, would make it impossible to
32 fulfill the provisions of subsection 1; or

33 (b) The membership of the particular board, commission,
34 committee, council, authority or similar body includes residents of
35 another state and the provisions of subsection 1 would conflict with
36 a requirement that applies to all members of that body.

37 **Sec. 9.** NRS 232A.020 is hereby amended to read as follows:

38 232A.020 1. Except as otherwise provided in this section, a
39 person appointed to a new term or to fill a vacancy on a board,
40 commission or similar body by the Governor must have, in
41 accordance with the provisions of NRS 281.050, ~~actually, as~~
42 ~~opposed to constructively,~~ resided, for the 6 months immediately
43 preceding the date of the appointment:

44 (a) In this State; and



1 (b) If current residency in a particular county, district, ward,
2 subdistrict or any other unit is prescribed by the provisions of law
3 that govern the position, also in that county, district, ward,
4 subdistrict or other unit.

5 2. After the Governor's initial appointments of members to
6 boards, commissions or similar bodies, all such members shall hold
7 office for terms of 3 years or until their successors have been
8 appointed and have qualified.

9 3. A vacancy on a board, commission or similar body occurs
10 when a member dies, resigns, becomes ineligible to hold office or is
11 absent from the State for a period of 6 consecutive months.

12 4. Any vacancy must be filled by the Governor for the
13 remainder of the unexpired term.

14 5. A member appointed to a board, commission or similar body
15 as a representative of the general public must be a person who:

16 (a) Has an interest in and a knowledge of the subject
17 matter which is regulated by the board, commission or similar body;
18 and

19 (b) Does not have a pecuniary interest in any matter
20 which is within the jurisdiction of the board, commission or similar
21 body.

22 6. The Governor shall not appoint a person to a board,
23 commission or similar body if the person is a member of any other
24 board, commission or similar body.

25 7. The provisions of subsection 1 do not apply if:

26 (a) A requirement of law concerning another characteristic or
27 status that a member must possess, including, without limitation,
28 membership in another organization, would make it impossible to
29 fulfill the provisions of subsection 1; or

30 (b) The membership of the particular board, commission or
31 similar body includes residents of another state and the provisions of
32 subsection 1 would conflict with a requirement that applies to all
33 members of that body.

34 **Sec. 10.** NRS 293.166 is hereby amended to read as follows:

35 293.166 1. A vacancy occurring in a party nomination for the
36 office of State Senator, Assemblyman or Assemblywoman from a
37 legislative district comprising more than one county may be filled as
38 follows, subject to the provisions of subsections 2 and 3. The county
39 commissioners of each county, all or part of which is included
40 within the legislative district, shall meet to appoint a person who is
41 of the same political party as the former nominee and who ~~factually,~~
42 ~~as opposed to constructively,~~ *in accordance with the provisions*
43 *of NRS 281.050*, resides in the district to fill the vacancy, with the
44 chair of the board of county commissioners of the county whose
45 population residing within the district is the greatest presiding. Each



1 board of county commissioners shall first meet separately and
2 determine the single candidate it will nominate to fill the vacancy.
3 Then, the boards shall meet jointly and the chairs on behalf of the
4 boards shall cast a proportionate number of votes according to the
5 percent, rounded to the nearest whole percent, which the population
6 of its county is of the population of the entire district. Populations
7 must be determined by the last decennial census or special census
8 conducted by the Bureau of the Census of the United States
9 Department of Commerce. The person who receives a plurality of
10 these votes is appointed to fill the vacancy. If no person receives a
11 plurality of the votes, the boards of county commissioners of the
12 respective counties shall each as a group select one candidate, and
13 the nominee must be chosen by drawing lots among the persons so
14 selected.

15 2. No change may be made on the ballot after the fourth Friday
16 in June of the year in which the general election is held. If a
17 nominee dies after that date, the nominee's name must remain on
18 the ballot and, if elected, a vacancy exists.

19 3. The designation of a nominee pursuant to this section must
20 be filed with the Secretary of State on or before 5 p.m. on the fourth
21 Friday in June of the year in which the general election is held, and
22 the statutory filing fee must be paid with the designation.

23 **Sec. 11.** NRS 293.1755 is hereby amended to read as follows:

24 293.1755 1. In addition to any other requirement provided by
25 law, no person may be a candidate for any office unless, for at least
26 the 30 days immediately preceding the date of the close of filing of
27 declarations of candidacy or acceptances of candidacy for the office
28 which the person seeks, the person has, in accordance with NRS
29 281.050, ~~actually, as opposed to constructively,~~ resided in the
30 State, district, county, township or other area prescribed by law to
31 which the office pertains and, if elected, over which he or she will
32 have jurisdiction or will represent.

33 2. Any person who knowingly and willfully files an acceptance
34 of candidacy or declaration of candidacy which contains a false
35 statement in this respect is guilty of a gross misdemeanor.

36 3. The provisions of this section do not apply to candidates for
37 the office of district attorney.

38 **Sec. 12.** NRS 293.177 is hereby amended to read as follows:

39 293.177 1. Except as otherwise provided in NRS 293.165, a
40 name may not be printed on a ballot to be used at a primary election
41 unless the person named has filed a declaration of candidacy or an
42 acceptance of candidacy, and has paid the fee required by NRS
43 293.193 not earlier than:

44 (a) For a candidate for judicial office, the first Monday in
45 January of the year in which the election is to be held nor



1 later than 5 p.m. on the second Friday after the first Monday in
2 January; and

3 (b) For all other candidates, the first Monday in March of the
4 year in which the election is to be held nor later than 5 p.m. on the
5 second Friday after the first Monday in March.

6 2. A declaration of candidacy or an acceptance of candidacy
7 required to be filed by this section must be in substantially the
8 following form:

9 (a) For partisan office:

10
11
12
13
14
15
16
17

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

18 For the purpose of having my name placed on the official ballot as a
19 candidate for the Party nomination for the office of
20, I, the undersigned, do swear or affirm under penalty
21 of perjury that I ~~actually, as opposed to constructively,~~ reside at
22, in the City or Town of, County of, State of
23 Nevada; that my ~~actual, as opposed to constructive,~~ residence in
24 the State, district, county, township, city or other area prescribed by
25 law to which the office pertains began on a date at least 30 days
26 immediately preceding the date of the close of filing of declarations
27 of candidacy for this office; that my telephone number is,
28 and the address at which I receive mail, if different than my
29 residence, is; that I am registered as a member of the
30 Party; that I am a qualified elector pursuant to Section 1
31 of Article 2 of the Constitution of the State of Nevada; that if I have
32 ever been convicted of treason or a felony, my civil rights have been
33 restored by a court of competent jurisdiction; that I have not, in
34 violation of the provisions of NRS 293.176, changed the designation
35 of my political party or political party affiliation on an official
36 application to register to vote in any state since December 31 before
37 the closing filing date for this election; that I generally believe in
38 and intend to support the concepts found in the principles and
39 policies of that political party in the coming election; that if
40 nominated as a candidate of the Party at the ensuing
41 election, I will accept that nomination and not withdraw; that I will
42 not knowingly violate any election law or any law defining and
43 prohibiting corrupt and fraudulent practices in campaigns and
44 elections in this State; that I will qualify for the office if elected
45 thereto, including, but not limited to, complying with any limitation



1 prescribed by the Constitution and laws of this State concerning the
2 number of years or terms for which a person may hold the office;
3 and that I understand that my name will appear on all ballots as
4 designated in this declaration.

5
6
7 (Designation of name)

8
9
10 (Signature of candidate for office)

11
12 Subscribed and sworn to before me
13 this day of the month of of the year

14
15
16 Notary Public or other person
17 authorized to administer an oath

18
19 (b) For nonpartisan office:

20
21 DECLARATION OF CANDIDACY OF FOR THE
22 OFFICE OF

23
24 State of Nevada

25
26 County of

27
28 For the purpose of having my name placed on the official ballot as a
29 candidate for the office of, I, the undersigned,
30 do swear or affirm under penalty of perjury that I ~~actually, as~~
31 ~~opposed to constructively,~~ reside at, in the City or Town of
32, County of, State of Nevada; that my ~~factual, as~~
33 ~~opposed to constructive,~~ residence in the State, district, county,
34 township, city or other area prescribed by law to which the office
35 pertains began on a date at least 30 days immediately preceding the
36 date of the close of filing of declarations of candidacy for this
37 office; that my telephone number is, and the address at
38 which I receive mail, if different than my residence, is; that I
39 am a qualified elector pursuant to Section 1 of Article 2 of the
40 Constitution of the State of Nevada; that if I have ever been
41 convicted of treason or a felony, my civil rights have been restored
42 by a court of competent jurisdiction; that if nominated as a
43 nonpartisan candidate at the ensuing election, I will accept the
44 nomination and not withdraw; that I will not knowingly violate any
45 election law or any law defining and prohibiting corrupt and



1 fraudulent practices in campaigns and elections in this State; that I
2 will qualify for the office if elected thereto, including, but not
3 limited to, complying with any limitation prescribed by the
4 Constitution and laws of this State concerning the number of years
5 or terms for which a person may hold the office; and my name will
6 appear on all ballots as designated in this declaration.

7
8
9 (Designation of name)

10
11
12 (Signature of candidate for office)

13
14 Subscribed and sworn to before me
15 this day of the month of of the year

16
17
18 Notary Public or other person
19 authorized to administer an oath
20

21 3. The address of a candidate which must be included in the
22 declaration of candidacy or acceptance of candidacy pursuant to
23 subsection 2 must be the street address of the residence where the
24 candidate ~~actually, as opposed to constructively,~~ resides in
25 accordance with NRS 281.050, if one has been assigned. The
26 declaration or acceptance of candidacy must not be accepted for
27 filing if:

28 (a) The candidate's address is listed as a post office box unless a
29 street address has not been assigned to his or her residence; or

30 (b) The candidate does not present to the filing officer:

31 (1) A valid driver's license or identification card issued by a
32 governmental agency that contains a photograph of the candidate
33 and the candidate's residential address; or

34 (2) A current utility bill, bank statement, paycheck, or
35 document issued by a governmental entity, including a check
36 which indicates the candidate's name and residential address,
37 but not including a voter registration card issued pursuant to
38 NRS 293.517.

39 4. The filing officer shall retain a copy of the proof of identity
40 and residency provided by the candidate pursuant to paragraph (b)
41 of subsection 3. Such a copy:

42 (a) May not be withheld from the public; and

43 (b) Must not contain the social security number or driver's
44 license or identification card number of the candidate.



1 5. By filing the declaration or acceptance of candidacy, the
2 candidate shall be deemed to have appointed the filing officer for
3 the office as his or her agent for service of process for the purposes
4 of a proceeding pursuant to NRS 293.182. Service of such process
5 must first be attempted at the appropriate address as specified by the
6 candidate in the declaration or acceptance of candidacy. If the
7 candidate cannot be served at that address, service must be made by
8 personally delivering to and leaving with the filing officer duplicate
9 copies of the process. The filing officer shall immediately send, by
10 registered or certified mail, one of the copies to the candidate at the
11 specified address, unless the candidate has designated in writing to
12 the filing officer a different address for that purpose, in which case
13 the filing officer shall mail the copy to the last address so
14 designated.

15 6. If the filing officer receives credible evidence indicating that
16 a candidate has been convicted of a felony and has not had his or her
17 civil rights restored by a court of competent jurisdiction, the filing
18 officer:

19 (a) May conduct an investigation to determine whether the
20 candidate has been convicted of a felony and, if so, whether the
21 candidate has had his or her civil rights restored by a court of
22 competent jurisdiction; and

23 (b) Shall transmit the credible evidence and the findings from
24 such investigation to the Attorney General, if the filing officer is the
25 Secretary of State, or to the district attorney, if the filing officer is a
26 person other than the Secretary of State.

27 7. The receipt of information by the Attorney General or
28 district attorney pursuant to subsection 6 must be treated as a
29 challenge of a candidate pursuant to subsections 4 and 5 of NRS
30 293.182. If the ballots are printed before a court of
31 competent jurisdiction makes a determination that a candidate has
32 been convicted of a felony and has not had his or her civil rights
33 restored by a court of competent jurisdiction, the filing officer must
34 post a notice at each polling place where the candidate's name will
35 appear on the ballot informing the voters that the candidate is
36 disqualified from entering upon the duties of the office for which the
37 candidate filed the declaration of candidacy or acceptance of
38 candidacy.

39 **Sec. 13.** NRS 293.181 is hereby amended to read as follows:

40 293.181 1. A candidate for the office of State Senator,
41 Assemblyman or Assemblywoman must execute and file with his or
42 her declaration of candidacy or acceptance of candidacy a
43 declaration of residency which must be in substantially the
44 following form:



I, the undersigned, do swear or affirm under penalty of perjury that I have been a citizen resident of this State as required by NRS 218A.200 and have ~~actually, as opposed to constructively,~~ resided at the following residence or residences since November 1 of the preceding year:

.....
Street Address	Street Address
.....
City or Town	City or Town
.....
State	State
.....
From To	From..... To
Dates of Residency	Dates of Residency
.....
Street Address	Street Address
.....
City or Town	City or Town
.....
State	State
.....
From To	From..... To
Dates of Residency	Dates of Residency
(Attach additional sheet or sheets of residences as necessary)	

2. Each address of a candidate which must be included in the declaration of residency pursuant to subsection 1 must be the street address of the residence where the candidate ~~actually, as opposed to constructively,~~ resided or resides in accordance with NRS 281.050, if one has been assigned. The declaration of residency must not be accepted for filing if any of the candidate's addresses are listed as a post office box unless a street address has not been assigned to the residence.

Sec. 14. NRS 293.427 is hereby amended to read as follows:

293.427 1. The Secretary of State shall deliver the statement of contest filed pursuant to NRS 293.425 and all other documents, including any amendments to the statement, to the presiding officer of the appropriate house of the Legislature on the day of the organization of the Legislature.

2. Until the contest has been decided, the candidate who received the highest number of votes for the office in the contested election must be seated as a member of the appropriate house.



* A B 4 0 7 R 1 *

1 3. If, before the contest has been decided, a contestant gives
2 written notice to the Secretary of State that the contestant wishes to
3 withdraw his or her statement of contest, the Secretary of State shall
4 dismiss the contest.

5 4. The contest, if not dismissed, must be heard and decided as
6 prescribed by the standing or special rules of the house in which the
7 contest is to be tried. If after hearing the contest, the house decides
8 to declare the contestant elected, the Governor shall execute a
9 certificate of election and deliver it to the contestant. The certificate
10 of election issued to the other candidate is thereafter void.

11 5. In a contest of a general election for the office of
12 Assemblyman, Assemblywoman or Senator, the house in which a
13 contest was tried or was to be tried shall determine the remedy, if
14 any, to be awarded to ~~the~~ *the prevailing* party to such a contest. ~~The~~
15 ~~remedy may include, without limitation, any~~ *If the house finds that*
16 *the contest or the defense of the contest was brought or*
17 *maintained without reasonable ground or to harass the prevailing*
18 *party, the house may require the party who is not the prevailing*
19 *party to pay:*

20 (a) *Any costs , as defined in NRS 18.005, actually and*
21 *necessarily incurred by ~~the~~ the prevailing party in connection with*
22 *the contest ~~is~~, in an amount not to exceed \$500;*

23 (b) *Any attorney's fees actually and necessarily incurred by*
24 *the prevailing party in connection with the contest, in an amount*
25 *not to exceed \$4,500; or*

26 (c) *Costs and attorney's fees as provided in paragraphs (a) and*
27 *(b).*

28 **Sec. 15.** NRS 293C.185 is hereby amended to read as follows:

29 293C.185 1. Except as otherwise provided in NRS 293C.115
30 and 293C.190, a name may not be printed on a ballot to be used at a
31 primary city election unless the person named has filed a declaration
32 of candidacy or an acceptance of candidacy and has paid the fee
33 established by the governing body of the city not earlier than 70
34 days before the primary city election and not later than 5 p.m. on the
35 60th day before the primary city election.

36 2. A declaration of candidacy required to be filed by this
37 section must be in substantially the following form:
38

39 DECLARATION OF CANDIDACY OF FOR THE
40 OFFICE OF

41
42 State of Nevada

43
44 City of



1 For the purpose of having my name placed on the official ballot as a
 2 candidate for the office of, I,, the
 3 undersigned do swear or affirm under penalty of perjury that I
 4 ~~actually, as opposed to constructively,~~ reside at, in the
 5 City or Town of, County of, State of
 6 Nevada; that my ~~actual, as opposed to constructive,~~ residence in
 7 the city, township or other area prescribed by law to which the
 8 office pertains began on a date at least 30 days immediately
 9 preceding the date of the close of filing of declarations of candidacy
 10 for this office; that my telephone number is, and the
 11 address at which I receive mail, if different than my residence, is
 12; that I am a qualified elector pursuant to Section 1 of
 13 Article 2 of the Constitution of the State of Nevada; that if I have
 14 ever been convicted of treason or a felony, my civil rights have been
 15 restored by a court of competent jurisdiction; that if nominated as a
 16 candidate at the ensuing election I will accept the nomination and
 17 not withdraw; that I will not knowingly violate any election law or
 18 any law defining and prohibiting corrupt and fraudulent practices in
 19 campaigns and elections in this State; that I will qualify for the
 20 office if elected thereto, including, but not limited to, complying
 21 with any limitation prescribed by the Constitution and laws of this
 22 State concerning the number of years or terms for which a person
 23 may hold the office; and my name will appear on all ballots as
 24 designated in this declaration.

25
26
27
28
29
30
31

.....
(Designation of name)

.....
(Signature of candidate for office)

32 Subscribed and sworn to before me
 33 this day of the month of of the year

34
35
 36 Notary Public or other person
 37 authorized to administer an oath
 38

39 3. The address of a candidate that must be included in the
 40 declaration or acceptance of candidacy pursuant to subsection 2
 41 must be the street address of the residence where the candidate
 42 ~~actually, as opposed to constructively,~~ resides in accordance with
 43 NRS 281.050, if one has been assigned. The declaration or
 44 acceptance of candidacy must not be accepted for filing if:



1 (a) The candidate's address is listed as a post office box unless a
2 street address has not been assigned to the residence; or

3 (b) The candidate does not present to the filing officer:

4 (1) A valid driver's license or identification card issued by a
5 governmental agency that contains a photograph of the candidate
6 and the candidate's residential address; or

7 (2) A current utility bill, bank statement, paycheck, or
8 document issued by a governmental entity, including a check which
9 indicates the candidate's name and residential address, but not
10 including a voter registration card issued pursuant to NRS 293.517.

11 4. The filing officer shall retain a copy of the proof of identity
12 and residency provided by the candidate pursuant to paragraph (b)
13 of subsection 3. Such a copy:

14 (a) May not be withheld from the public; and

15 (b) Must not contain the social security number or driver's
16 license or identification card number of the candidate.

17 5. By filing the declaration or acceptance of candidacy, the
18 candidate shall be deemed to have appointed the city clerk as his or
19 her agent for service of process for the purposes of a proceeding
20 pursuant to NRS 293C.186. Service of such process must first be
21 attempted at the appropriate address as specified by the candidate in
22 the declaration or acceptance of candidacy. If the candidate cannot
23 be served at that address, service must be made by personally
24 delivering to and leaving with the city clerk duplicate copies of the
25 process. The city clerk shall immediately send, by registered or
26 certified mail, one of the copies to the candidate at the specified
27 address, unless the candidate has designated in writing to the city
28 clerk a different address for that purpose, in which case the city
29 clerk shall mail the copy to the last address so designated.

30 6. If the city clerk receives credible evidence indicating that a
31 candidate has been convicted of a felony and has not had his or her
32 civil rights restored by a court of competent jurisdiction, the city
33 clerk:

34 (a) May conduct an investigation to determine whether the
35 candidate has been convicted of a felony and, if so, whether the
36 candidate has had his or her civil rights restored by a court of
37 competent jurisdiction; and

38 (b) Shall transmit the credible evidence and the findings from
39 such investigation to the city attorney.

40 7. The receipt of information by the city attorney pursuant to
41 subsection 6 must be treated as a challenge of a candidate pursuant
42 to subsections 4 and 5 of NRS 293C.186. If the ballots are printed
43 before a court of competent jurisdiction makes a determination that
44 a candidate has been convicted of a felony and has not had his or her
45 civil rights restored by a court of competent jurisdiction, the city



1 clerk must post a notice at each polling place where the candidate's
2 name will appear on the ballot informing the voters that the
3 candidate is disqualified from entering upon the duties of the office
4 for which the candidate filed the declaration of candidacy or
5 acceptance of candidacy.

6 **Sec. 16.** NRS 293C.200 is hereby amended to read as follows:

7 293C.200 1. In addition to any other requirement provided by
8 law, no person may be a candidate for a city office unless, for at
9 least the 30 days immediately preceding the date of the close of
10 filing of declarations or acceptances of candidacy for the office that
11 the person seeks, the person has in accordance with NRS 281.050,
12 ~~actually, as opposed to constructively,~~ resided in the city or other
13 area prescribed by law to which the office pertains and, if elected,
14 over which he or she will have jurisdiction or which he or she will
15 represent.

16 2. Any person who knowingly and willfully files a declaration
17 of candidacy or an acceptance of candidacy that contains a false
18 statement in this respect is guilty of a gross misdemeanor.

