

ASSEMBLY BILL NO. 479—ASSEMBLYMAN HETTRICK

MARCH 11, 1999

Referred to Committee on Elections, Procedures, and Ethics

SUMMARY—Revises various provisions concerning elections. (BDR 24-1355)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 elections; changing the date of the primary election to the first Tuesday in August; changing the date for filing of certain petitions, certificates of nomination and declarations of candidacy; revising the requirements for recounting ballots by hand; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 293.165 is hereby amended to read as follows:
2 293.165 1. Except as otherwise provided in NRS 293.166, a vacancy
3 occurring in a major or minor political party nomination for office may be
4 filled by a candidate designated by the party central committee of the
5 county or state, as the case may be, subject to the provisions of subsections
6 4 and 5.
7 2. A vacancy occurring in a nonpartisan nomination after the close of
8 filing and before the first Tuesday in ~~September~~ **August** must be filled by
9 filing a nominating petition that is signed by at least 1 percent of the
10 persons who are registered to vote and who voted for the office in question
11 in the state, county, district or municipality at the last preceding general
12 election. The petition must be filed not earlier than the first Tuesday in
13 June and not later than the third Tuesday in ~~September~~ **August**. A
14 candidate nominated pursuant to the provisions of this subsection may be
15 elected only at a general election and his name must not appear on the
16 ballot for a primary election.
17 3. A vacancy occurring in a nonpartisan nomination after a primary
18 election and before the second Tuesday in ~~September~~ **August** must be

1 filled by the person who received the next highest vote for the nomination
2 in the primary.

3 4. Except to place a candidate nominated pursuant to subsection 2 on
4 the ballot, no change may be made on the ballot after the second Tuesday
5 in ~~{September,}~~ **August** of the year in which the general election is held. If
6 a nominee dies after that date, his name must remain on the ballot and, if
7 elected, a vacancy exists.

8 5. All designations provided for in this section must be filed before 5
9 p.m. on the second Tuesday in ~~{September,}~~ **August**. In each case, the
10 statutory filing fee must be paid and an acceptance of the designation must
11 be filed before 5 p.m. on that date.

12 **Sec. 2.** NRS 293.166 is hereby amended to read as follows:

13 293.166 1. A vacancy occurring in a party nomination for the office
14 of state senator or assemblyman from a legislative district comprising more
15 than one county may be filled as follows, subject to the provisions of
16 subsections 2 and 3. The county commissioners of each county all or part
17 of which is included within the legislative district, shall meet to appoint a
18 person of the same political party as the former nominee to fill the
19 vacancy, under the chairmanship of the chairman of the board of county
20 commissioners of the county whose population residing within the district
21 is the greatest. Each board of county commissioners shall first meet
22 separately and determine the single candidate it will nominate to fill the
23 vacancy. Then the boards shall meet jointly and the chairmen on behalf of
24 the boards shall cast a proportionate number of votes according to the
25 percent, rounded to the nearest whole percent, which the population of its
26 county is of the population of the entire district. Populations must be
27 determined by the last decennial census or special census conducted by the
28 Bureau of the Census of the United States Department of Commerce. The
29 person who receives a plurality of these votes is appointed to fill the
30 vacancy. If no person receives a plurality of the votes, the boards of county
31 commissioners of the respective counties shall each as a group select one
32 candidate, and the nominee must be chosen by drawing lots among the
33 persons so selected.

34 2. No change may be made on the ballot after the second Tuesday in
35 ~~{September,}~~ **August** of the year in which the general election is held. If a
36 nominee dies after that date, his name must remain on the ballot and, if
37 elected, a vacancy exists.

38 3. The designation of a nominee pursuant to this section must be filed
39 with the secretary of state before 5 p.m. of the second Tuesday in
40 ~~{September,}~~ **August**, and the statutory filing fee must be paid with the
41 designation.

Sec. 3. NRS 293.171 is hereby amended to read as follows:

293.171 1. To qualify as a minor political party, an organization must file with the secretary of state a certificate of existence which includes the:

- (a) Name of the political party;
- (b) Names of its officers;
- (c) Names of the members of its executive committee; and
- (d) Name of the person authorized to file the list of its candidates with the secretary of state.

2. A copy of the constitution or bylaws of the party must be affixed to the certificate.

3. A minor political party shall file with the secretary of state an amended certificate of existence within 5 days after any change in the information contained in the certificate.

4. The constitution or bylaws of a minor political party must provide a procedure for the nomination of its candidates in such a manner that only one candidate may be nominated for each office.

5. A minor political party whose candidates do not appear on the ballot for the general election must file a notice of continued existence with the secretary of state not later than the second Friday in ~~August~~ *July* preceding the general election.

6. A minor political party which fails to file a notice of continued existence as required by subsection 5 ceases to exist as a minor political party in this state.

Sec. 4. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates pursuant to the provisions of NRS 293.1725 with the secretary of state and:

(a) At the last preceding general election, the minor political party polled for any of its candidates a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in the state; or

(c) Not later than the second Friday in ~~August~~ *July* preceding the general election, files a petition with the secretary of state which is signed by a number of registered voters equal to at least 1 percent of the total

1 number of votes cast at the last preceding general election for the offices of
2 Representative in Congress.

3 3. The name of only one candidate of each minor political party for
4 each office may appear on the ballot for a general election.

5 4. A minor political party must file a copy of the petition required by
6 paragraph (c) of subsection 2 with the secretary of state before the petition
7 may be circulated for signatures.

8 **Sec. 5.** NRS 293.172 is hereby amended to read as follows:

9 293.172 1. A petition filed pursuant to paragraph (c) of subsection 2
10 of NRS 293.1715 may consist of more than one document. Each document
11 of the petition must:

12 (a) Bear the name of the county in which it was circulated;

13 (b) Include the affidavit of the person who circulated the document
14 verifying that the signers are registered voters in the state according to his
15 best information and belief and that the signatures are genuine and were
16 signed in his presence; and

17 (c) Be submitted to the county clerk in the county in which it is
18 circulated for verification in the manner prescribed in NRS 293.1276 to
19 293.1279, inclusive, not later than 40 days before the ~~third Tuesday in~~
20 ~~August.~~ **second Friday in July.** A challenge to the form of a petition filed
21 pursuant to paragraph (c) of subsection 2 of NRS 293.1715 must be made
22 in a district court in the county in which the petition was circulated.

23 2. A document which bears the name of a county may be signed only
24 by registered voters of that county.

25 3. Each person who signs a document shall also provide the address of
26 the place where he resides, the date that he signs and the name of the
27 county in which he is registered to vote.

28 4. The county clerk shall not disqualify the signature of a voter who
29 failed to provide all of the information required by this section if the voter
30 is registered in the county named on the document.

31 **Sec. 6.** NRS 293.1725 is hereby amended to read as follows:

32 293.1725 1. Except as otherwise provided in subsection 4, a minor
33 political party which wishes to place its candidates on the ballot for a
34 general election and:

35 (a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2
36 of NRS 293.1715; or

37 (b) Files a petition pursuant to paragraph (c) of subsection 2 of NRS
38 293.1715,

39 must file with the secretary of state a list of its candidates not earlier than
40 the first Monday in May preceding the election nor later than the last

41 Friday in June. The list must be signed by the person so authorized in the

42 certificate of existence of the minor political party before a notary public

1 or other person authorized to take acknowledgments. The list must not be
2 amended after it is filed.

3 2. The secretary of state shall immediately forward a certified copy of
4 the list of candidates of each minor political party to the filing officer with
5 whom each candidate must file his declaration of candidacy.

6 3. Each candidate on the list must file his declaration of candidacy
7 with the proper filing officer and pay the fee required by NRS 293.193 not
8 earlier than the date on which the list of candidates of his minor political
9 party is filed with the secretary of state nor later than the first Wednesday
10 in July.

11 4. A minor political party that wishes to place candidates for the
12 offices of President and Vice President of the United States on the ballot
13 and has otherwise qualified to place the names of its candidates on the
14 ballot for the general election pursuant to the provisions of this chapter
15 must file with the secretary of state a certificate of nomination for these
16 offices not later than the first Tuesday in ~~September~~ **August**.

17 **Sec. 7.** NRS 293.174 is hereby amended to read as follows:

18 293.174 1. If the qualification of a minor political party is
19 challenged, all affidavits and documents in support of the challenge must
20 be filed not later than 5 p.m. on the ~~3rd~~ **third** Friday in ~~August~~ **July**.
21 Any judicial proceeding resulting from the challenge must be set for
22 hearing not more than 5 days after the ~~3rd~~ **third** Friday in ~~August~~ **July**.

23 2. Any such challenge must be filed with the first judicial district court
24 if the petition was filed with the secretary of state.

25 **Sec. 8.** NRS 293.175 is hereby amended to read as follows:

26 293.175 1. The primary election must be held on the first Tuesday of
27 ~~September~~ **August** in each even-numbered year.

28 2. Candidates of a major political party and candidates for nonpartisan
29 offices must be nominated at the primary election.

30 3. Candidates of a minor political party must be nominated in the
31 manner prescribed pursuant to NRS 293.171.

32 4. Independent candidates for partisan office must be nominated in the
33 manner provided in NRS 293.200.

34 5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply
35 to:

36 (a) Special elections to fill vacancies.

37 (b) The nomination of the officers of incorporated cities.

38 (c) The nomination of district officers whose nomination is otherwise
39 provided for by statute.

40 **Sec. 9.** NRS 293.200 is hereby amended to read as follows:

41 293.200 1. An independent candidate for partisan office must file
42 with the proper filing officer:

officer:

1 (a) A copy of the petition of candidacy that he intends to circulate for
2 signatures. The copy must be filed before the petition may be circulated.

3 (b) A petition of candidacy signed by a number of registered voters
4 equal to at least 1 percent of the total number of ballots cast in the state or
5 in the county or district electing that officer at the last preceding general
6 election in which a person was elected to that office.

7 2. The petition may consist of more than one document. Each
8 document must bear the name of the county in which it was circulated and
9 only registered voters of that county may sign the document. The person
10 who circulates the document must be a registered voter of that county. If
11 the office is a district office, only the registered voters of that district may
12 sign the document. The documents which are circulated for signature in a
13 county must be submitted to that county clerk for verification in the
14 manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than
15 40 days before filing the petition of candidacy with the proper filing
16 officer. Each signer shall add to his signature the address of the place at
17 which he actually resides, the date that he signs the petition and the name
18 of the county where he is registered to vote for the purpose of determining
19 whether he is a registered voter. The person who circulates each document
20 of the petition shall sign an affidavit attesting that the signatures on the
21 document are genuine to the best of his knowledge and belief and were
22 signed in his presence by persons registered to vote in that county.

23 3. The petition of candidacy may state the principle, if any, which the
24 person qualified represents.

25 4. Petitions of candidacy must be filed not earlier than the first
26 Monday in May preceding the general election and not later than 5 p.m. on
27 the third Tuesday in ~~August.~~ July.

28 5. No petition of candidacy may contain the name of more than one
29 candidate for each office to be filled.

30 6. A person may not file as an independent candidate if he is
31 proposing to run as the candidate of a political party.

32 7. The names of independent candidates must be placed on the general
33 election ballot and must not appear on the primary election ballot.

34 8. If the candidacy of any person seeking to qualify pursuant to this
35 section is challenged, all affidavits and documents in support of the
36 challenge must be filed not later than 5 p.m. on the fourth Tuesday in
37 ~~August.~~ July. Any judicial proceeding resulting from the challenge must
38 be set for hearing not more than 5 days after the fourth Tuesday in
39 ~~August.~~ July.

40 9. Any challenge pursuant to subsection 8 must be filed with:

41 (a) The first judicial district court if the petition of candidacy was filed
42 with the secretary of state.

1 (b) The district court for the county where the petition of candidacy was
2 filed if the petition was filed with a county clerk.

3 10. An independent candidate for partisan office must file a
4 declaration of candidacy with the proper filing officer and pay the fee
5 required by NRS 293.193 not earlier than the first Monday in May of the
6 year in which the election is held nor later than 5 p.m. of the first
7 Wednesday in July.

8 **Sec. 10.** NRS 293.345 is hereby amended to read as follows:

9 293.345 The county clerk shall mail to each registered voter in each
10 mailing precinct and in each absent ballot mailing precinct, before 5 p.m.
11 on the third Thursday in ~~August~~ **July** and before 5 p.m. on the fourth
12 Tuesday in October of any year in which a general election is to be held,
13 an official mailing ballot to be voted by him at the election.

14 **Sec. 11.** NRS 293.368 is hereby amended to read as follows:

15 293.368 1. Whenever a candidate whose name appears upon the
16 ballot at a general election dies after 5 p.m. of the ~~third~~ **second** Tuesday
17 in ~~September~~ **August** and before the time of the closing of the polls on
18 the day of the election, the votes cast for the deceased candidate must be
19 counted in determining the results of the election for the office for which
20 the decedent was a candidate.

21 2. If the deceased candidate receives the majority of the votes cast for
22 the office, he shall be deemed elected and the office to which he was
23 elected shall be deemed vacant at the beginning of the term for which he
24 was elected. The vacancy thus created must be filled in the same manner as
25 if the candidate had died after taking office for that term.

26 **Sec. 12.** NRS 293.404 is hereby amended to read as follows:

27 293.404 1. Where a recount is demanded pursuant to the provisions
28 of NRS 293.403, the:

29 (a) County clerk of each county affected by the recount shall employ a
30 recount board to conduct the recount in the county, and shall act as
31 chairman of the recount board unless the recount is for the office of county
32 clerk, in which case the chairman of the board of county commissioners
33 shall act as chairman of the recount board. At least one member of the
34 board of county commissioners must be present at the recount.

35 (b) City clerk shall employ a recount board to conduct the recount in the
36 city, and shall act as chairman of the recount board unless the recount is for
37 the office of city clerk, in which case the mayor of the city shall act as
38 chairman of the recount board. At least one member of the city council
39 must be present at the recount.

40 Each candidate for the office affected by the recount and the voter who
41 demanded the recount, if any, may be present in person or by an authorized
42 representative, but may not be a member of the recount board.

2. Except in counties or cities using a mechanical voting system, the recount must include a count and inspection of all ballots, including rejected ballots, and must determine whether those ballots are marked as required by law.

3. If a recount is demanded in a county or city using a mechanical voting system, the person who demanded the recount shall select the ballots for the office or ballot question affected from 5 percent of the precincts, but in no case fewer than three precincts, after consultation with each candidate for the office or his authorized representative. The recount board shall examine the selected ballots, including any duplicate or rejected ballots, shall determine whether the ballots have been voted in accordance with this Title and shall count the valid ballots by hand. ~~[A]~~ **In addition, a** recount by computer must be made of all the selected ballots. If the count **by hand or the recount by computer** of the selected ballots ~~for the recount~~ shows a discrepancy ~~of~~ **equal to or greater than** 1 percent or ~~more for either candidate,~~ **10 votes, whichever is greater, for any candidate for the office,** or in favor of or against a ballot question, from the original canvass of the returns, the county or city clerk shall order a count by hand of all the ballots for that office. ~~If there is not a discrepancy of 1 percent or more,~~ **Otherwise,** the county or city clerk ~~shall not order such a count, but~~ shall order a recount by computer of all the ballots for the office.

4. The county or city clerk shall unseal and give to the recount board all ballots to be counted.

5. In the case of a demand for a recount affecting more than one county, the demand must be made to the secretary of state, who shall notify the county clerks to proceed with the recount.

Sec. 13. NRS 298.109 is hereby amended to read as follows:

298.109 1. A person who desires to be an independent candidate for the office of President of the United States must, not later than 5 p.m. on the second Friday in ~~August in each~~ **July in the** year in which ~~the~~ presidential election is to be held, pay a filing fee of \$250 and file with the secretary of state a declaration of candidacy and a petition of candidacy, in which he must also designate his nominee for Vice President. The petition must be signed by a number of registered voters equal to not less than 1 percent of the total number of votes cast at the last preceding general election for candidates for the offices of Representative in Congress and must request that the names of the proposed candidates be placed on the ballot at the general election that year. The candidate shall file a copy of the petition he intends to circulate for signatures with the secretary of state.

2. The petition may consist of more than one document. Each document must bear the name of a county and only registered voters of that county may sign the document. The documents which are circulated

1 for signature in a county must be submitted to that county clerk for
2 verification in the manner prescribed in NRS 293.1276 to 293.1279,
3 inclusive, not later than 40 days before filing the petition of candidacy with
4 the secretary of state. Each person signing shall add to his signature the
5 address of the place at which he resides, the date that he signs and the
6 name of the county wherein he is registered to vote. Each document of the
7 petition must also contain the affidavit of the person who circulated the
8 document that all signatures thereon are genuine to the best of his
9 knowledge and belief and were signed in his presence by persons
10 registered to vote in that county.

11 3. Each independent candidate so nominated for the office of President
12 shall at the time of filing his petition as provided in subsection 1, or within
13 10 days thereafter, file with the secretary of state his written designation of
14 the names of the number of presidential electors then authorized by law,
15 whom the independent candidate desires to act as his electors, all of whom
16 must then be registered voters. Immediately following receipt of each
17 candidate's written designation of his nominees for electors, the secretary
18 of state shall record them in his office as the nominees for presidential
19 electors of that independent candidate.

20 4. If the candidacy of any person who seeks to qualify pursuant to this
21 section is challenged, all affidavits and documents in support of the
22 challenge must be filed with the first judicial district court not later than 5
23 p.m. on the fourth Tuesday in ~~August.~~ **July**. Any judicial proceeding
24 relating to the challenge must be set for hearing not later than 5 days after
25 the fourth Tuesday in ~~August.~~ **July**.

26 5. The county clerk shall not disqualify the signature of a voter who
27 fails to provide all of the information required by this section if the voter is
28 registered in the county named on the document.