

ASSEMBLY BILL NO. 487—ASSEMBLYMEN CHOWNING, DE BRAGA, OHRENSCHALL, ANDERSON, BEERS, BERMAN, BROWN, CARPENTER, CEGAVSKE, CLABORN, DINI, FREEMAN, GIBBONS, GIUNCHIGLIANI, GOLDWATER, GUSTAVSON, HETTRICK, HUMKE, KOIVISTO, LESLIE, MANENDO, MARVEL, MCCLAIN, MORTENSON, NOLAN, PARKS, PARNELL, PERKINS, PRICE, SMITH AND TIFFANY

MARCH 19, 2001

Referred to Committee on Elections, Procedures, and Ethics

SUMMARY—Allowing for challenges of qualifications of certain candidates for office and providing that candidates who file certain false documents are ineligible for public office for 5 years. (BDR 24-586)

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 candidates for office; allowing an elector to challenge the legal qualifications of certain candidates for office; providing that a candidate who files certain false documents is removed from the ballot, disqualified from his office and ineligible for office for 5 years; 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.** Chapter 293 of NRS is hereby amended by adding thereto  
2     the provisions set forth as sections 2 and 3 of this act.  
3     **Sec. 2. 1. *After a person files a declaration of candidacy or an***  
4     ***acceptance of candidacy to be a candidate for an office, and not later***  
5     ***than 5 days after the last day the person may withdraw his candidacy***  
6     ***pursuant to NRS 293.202, an elector may file with the filing officer for***  
7     ***the office a written challenge of the person on the grounds that the***  
8     ***person fails to meet any qualification required for the office pursuant to***  
9     ***the constitution or a statute of this state, including, without limitation, a***  
10    ***requirement concerning age or residency.***  
11    2. *A challenge filed pursuant to subsection 1 must:*  
12    (a) *Indicate each qualification the person fails to meet; and*  
13    (b) *Contain evidence supporting the challenge.*  
14    3. *Upon receipt of a challenge pursuant to subsection 1:*



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- 1     (a) *The secretary of state shall immediately transmit the challenge to*  
2     *the attorney general.*
- 3     (b) *A filing officer other than the secretary of state shall immediately*  
4     *transmit the challenge to the district attorney.*
- 5     4. *Unless the claim appears frivolous, upon receipt of a challenge*  
6     *pursuant to subsection 3, the attorney general or district attorney shall*  
7     *cause proceedings to be instituted in a court of competent jurisdiction in*  
8     *not less than 5 days. The court shall give priority to such proceedings*  
9     *over all other matters pending with the court, except for criminal*  
10    *proceedings.*
- 11    5. *If the court determines that the person fails to meet any*  
12    *qualification required for the office pursuant to the constitution or a*  
13    *statute of this state:*
- 14    (a) *The name of the person must not appear on any ballot for the*  
15    *election for the office for which he filed the declaration of candidacy or*  
16    *acceptance of candidacy; and*
- 17    (b) *The person is disqualified from entering upon the duties of the*  
18    *office for which he filed the declaration of candidacy or acceptance of*  
19    *candidacy.*
- 20    **Sec. 3.** *In addition to any other penalty provided by law, if a person*  
21    *knowingly and willfully files a declaration of candidacy or acceptance of*  
22    *candidacy which contains a false statement:*
- 23    1. *The name of the person must not appear on any ballot for the*  
24    *election for which he filed the declaration of candidacy or acceptance of*  
25    *candidacy;*
- 26    2. *The person is disqualified from entering upon the duties of the*  
27    *office for which he was a candidate; and*
- 28    3. *The person is not eligible to be a candidate for any public office*  
29    *for 5 years.*
- 30    **Sec. 4.** NRS 293.175 is hereby amended to read as follows:  
31    293.175 1. The primary election must be held on the first Tuesday of  
32    September in each even-numbered year.
- 33    2. Candidates for partisan office of a major political party and  
34    candidates for nonpartisan office must be nominated at the primary  
35    election.
- 36    3. Candidates for partisan office of a minor political party must be  
37    nominated in the manner prescribed pursuant to NRS 293.171 to 293.174,  
38    inclusive.
- 39    4. Independent candidates for partisan office must be nominated in the  
40    manner provided in NRS 293.200.
- 41    5. The provisions of NRS 293.175 to 293.203, inclusive, *and sections*  
42    *2 and 3 of this act* do not apply to:
- 43    (a) Special elections to fill vacancies.
- 44    (b) The nomination of the officers of incorporated cities.
- 45    (c) The nomination of district officers whose nomination is otherwise  
46    provided for by statute.
- 47    **Sec. 5.** NRS 293.1755 is hereby amended to read as follows:  
48    293.1755 1. In addition to any other requirement provided by law, no  
49    person may be a candidate for any office unless, for at least the 30 days



1 immediately preceding the date of the close of filing of declarations of  
2 candidacy or acceptances of candidacy for the office which he seeks, he  
3 has, in accordance with NRS 281.050, actually, as opposed to  
4 constructively, resided in the state, district, county, township or other area  
5 prescribed by law to which the office pertains and, if elected, over which  
6 he will have jurisdiction or which he will represent.

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

10 3. ~~Any person convicted pursuant to the provisions of this section is~~  
11 ~~disqualified from entering upon the duties of the office for which he was a~~  
12 ~~candidate.~~

13 ~~4.~~ The provisions of this section do not apply to candidates for the  
14 office of district attorney.

15 **Sec. 6.** Chapter 293C of NRS is hereby amended by adding thereto  
16 the provisions set forth as sections 7 and 8 of this act.

17 **Sec. 7.** 1. *After a person files a declaration of candidacy or an*  
18 *acceptance of candidacy to be a candidate for an office, and not later*  
19 *than 5 days after the last day the person may withdraw his candidacy*  
20 *pursuant to NRS 293C.195, an elector may file with the city clerk a*  
21 *written challenge of the person on the grounds that the person fails to*  
22 *meet any qualification required for the office pursuant to the constitution*  
23 *or a statute of this state, including, without limitation, a requirement*  
24 *concerning age or residency.*

25 2. *A challenge filed pursuant to subsection 1 must:*

26 (a) *Indicate each qualification the person fails to meet; and*

27 (b) *Contain evidence supporting the challenge.*

28 3. *Upon receipt of a challenge pursuant to subsection 1, the city clerk*  
29 *shall immediately transmit the challenge to the city attorney.*

30 4. *Unless the claim appears frivolous, upon receipt of a challenge*  
31 *pursuant to subsection 3, the city attorney shall cause proceedings to be*  
32 *instituted in a court of competent jurisdiction in not less than 5 days. The*  
33 *court shall give priority to such proceedings over all other matters*  
34 *pending with the court, except for criminal proceedings.*

35 5. *If the court determines that the person fails to meet any*  
36 *qualification required for the office pursuant to the constitution or a*  
37 *statute of this state:*

38 (a) *The name of the person must not appear on any ballot for the*  
39 *election for the office for which he filed the declaration of candidacy or*  
40 *acceptance of candidacy; and*

41 (b) *The person is disqualified from entering upon the duties of the*  
42 *office for which he filed the declaration of candidacy or acceptance of*  
43 *candidacy.*

44 **Sec. 8.** *In addition to any other penalty provided by law, if a person*  
45 *knowingly and willfully files a declaration of candidacy or acceptance of*  
46 *candidacy which contains a false statement:*

47 1. *The name of the person must not appear on any ballot for the*  
48 *election for which he filed the declaration of candidacy or acceptance of*  
49 *candidacy;*



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1     2.   *The person is disqualified from entering upon the duties of the*  
2     *office for which he was a candidate; and*

3     3.   *The person is not eligible to be a candidate for any public office*  
4     *for 5 years.*

5     **Sec. 9.** NRS 293C.200 is hereby amended to read as follows:

6     293C.200   1.   In addition to any other requirement provided by law,  
7     no person may be a candidate for a city office unless, for at least the 30  
8     days immediately preceding the date of the close of filing of declarations or  
9     acceptances of candidacy for the office that he seeks, he has in accordance  
10    with NRS 281.050, actually, as opposed to constructively, resided in the  
11    city or other area prescribed by law to which the office pertains and, if  
12    elected, over which he will have jurisdiction or which he will represent.

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

16    ~~13.   Any person convicted pursuant to the provisions of this section is~~  
17    ~~disqualified from entering upon the duties of the office for which he was a~~  
18    ~~candidate.~~

19    **Sec. 10.** NRS 283.040 is hereby amended to read as follows:

20    283.040   1.   Every office becomes vacant upon the occurring of any of  
21    the following events before the expiration of the term:

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

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

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

26    (d) A conviction of the incumbent of any felony or offense involving a  
27    violation of his official oath or bond or a violation of NRS 241.040,  
28    293.1755 or 293C.200.

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

33    (f) Except as otherwise provided in NRS 266.400, the ceasing of the  
34    incumbent to be an actual, as opposed to constructive, resident of the state,  
35    district, county, city, ward or other unit prescribed by law in which the  
36    duties of his office are to be exercised, or from which he was elected or  
37    appointed, or in which he was required to reside to be a candidate for office  
38    or appointed to office.

39    (g) The neglect or refusal of the incumbent to discharge the duties of his  
40    office for a period of 30 days, except when prevented by sickness or  
41    absence from the state or county, as provided by law. In a county whose  
42    population is less than 10,000, after an incumbent, other than a state  
43    officer, has been prevented by sickness from discharging the duties of his  
44    office for at least 6 months, the district attorney, either on his own volition  
45    or at the request of another person, may petition the district court to declare  
46    the office vacant. If the incumbent holds the office of district attorney, the  
47    attorney general, either on his own volition or at the request of another  
48    person, may petition the district court to declare the office vacant. The



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1 district court shall hold a hearing to determine whether to declare the office  
2 vacant and, in making its determination, shall consider evidence relating to:  
3 (1) The medical condition of the incumbent;  
4 (2) The extent to which illness, disease or physical weakness has  
5 rendered the incumbent unable to manage independently and perform the  
6 duties of his office; and  
7 (3) The extent to which the absence of the incumbent has had a  
8 detrimental effect on the applicable governmental entity.  
9 (h) The decision of a competent tribunal declaring the election or  
10 appointment void or the office vacant.  
11 *(i) A determination pursuant to section 2 or 7 of this act that the*  
12 *incumbent fails to meet any qualification required for the office.*  
13 2. Upon the happening of any of the events described in subsection 1,  
14 if the incumbent fails or refuses to relinquish his office, the attorney  
15 general shall, if the office is a state office or concerns more than one  
16 county, or the district attorney shall, if the office is a county office or  
17 concerns territory within one county, commence and prosecute, in a court  
18 of competent jurisdiction, any proceedings for judgment and decree  
19 declaring that office vacant.  
20 **Sec. 11.** The provisions of this act do not apply to conduct that  
21 occurred before October 1, 2001.

