

SENATE BILL NO. 234—SENATOR LEE

MARCH 21, 2005

Referred to Committee on Judiciary

SUMMARY—Revises qualifications for certain judges and justices and urges Supreme Court to study need for establishment of intermediate appellate court. (BDR 1-775)

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 the Judicial Department; revising the qualifications for justices of the Supreme Court, district judges and justices of the peace; urging the Supreme Court to conduct a study of the need for the establishment of an intermediate appellate court in this State; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires, in addition to other qualifications, that to be a candidate for or qualify for the office of justice of the Supreme Court, district judge or justice of the peace in certain townships a person must be an attorney licensed and admitted to practice law in the courts of this State. (NRS 2.020, 3.060, 4.010)

This bill provides an additional qualification for those judicial offices that a person must have been licensed and admitted to practice law in the courts of this State, another state or the District of Columbia for a specific period before the election or appointment of the person to the office. The period that a person must have been licensed and admitted to practice law to qualify for the office of justice of the Supreme Court is at least 15 years, at least 2 years of which must have been in this State. The period that a person must have been licensed and admitted to practice law to qualify for the office of district judge is at least 10 years, at least 2 years of which must have been in this State. The period that a person must have been licensed and admitted to practice law to qualify for the office of justice of the peace in a township in which a justice of the peace is required to be a licensed attorney is 5 years. This new requirement concerning the office of justice of the peace does not apply to any person who held the office of justice of the peace on June 30, 2001.



* S B 2 3 4 R 2 *

This bill does not affect the current term of any justice of the Supreme Court, district judge or justice of the peace who is serving in that office on October 1, 2005.

This bill also urges the Nevada Supreme Court to conduct a study of and make recommendations concerning whether the State of Nevada would benefit from the establishment of an intermediate appellate court.

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

Section 1. NRS 2.020 is hereby amended to read as follows:

2.020 1. A person ~~{shall}~~ **may** not be a candidate for or be eligible to the office of justice of the Supreme Court:

(a) Unless he has attained the age of 25 years.

(b) Unless he is an attorney licensed and admitted to practice law in the courts of this State ~~{}~~ **at the time of his election or appointment.**

(c) ***Unless he has been an attorney licensed and admitted to practice law in the courts of this State, another state or the District of Columbia for not less than 15 years at any time preceding his election or appointment, at least 2 years of which has been in this State.***

(d) Unless he is a qualified elector and has been a bona fide resident of this State for 2 years next preceding the election or appointment.

~~{(d)}~~ (e) If he has ever been removed from any judicial office by the Legislature or removed or retired from any judicial office by the Commission on Judicial Discipline.

2. For the purposes of this section, a person ~~{shall not be ineligible}~~ **is eligible** to be a candidate for the office of justice of the Supreme Court if a decision to remove or retire him from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.

Sec. 2. NRS 3.060 is hereby amended to read as follows:

3.060 1. A person ~~{shall}~~ **may** not be a candidate for or be eligible to the office of district judge:

(a) Unless he has attained the age of 25 years.

(b) Unless he is an attorney licensed and admitted to practice law in the courts of this State ~~{}~~ **at the time of his election or appointment.**

(c) ***Unless he has been an attorney licensed and admitted to practice law in the courts of this State, another state or the District of Columbia for a total of not less than 10 years at any time preceding his election or appointment, at least 2 years of which has been in this State.***



(d) Unless he is a qualified elector and has been a bona fide resident of this State for 2 years next preceding the election or appointment.

~~((d))~~ (e) If he has ever been removed from any judicial office by the Legislature or removed or retired from any judicial office by the Commission on Judicial Discipline.

2. For the purposes of this section, a person ~~[shall not be ineligible]~~ *is eligible* to be a candidate for the office of district judge if a decision to remove or retire him from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.

Sec. 3. NRS 4.010 is hereby amended to read as follows:

4.010 1. A person ~~[shall]~~ *may* not be a candidate for or be eligible to the office of justice of the peace unless he is a qualified elector and has never been removed or retired from any judicial office by the Commission on Judicial Discipline. For the purposes of this subsection, a person ~~[shall not be ineligible]~~ *is eligible* to be a candidate for the office of justice of the peace if a decision to remove or retire him from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.

2. A justice of the peace must have a high school diploma or its equivalent as determined by the State Board of Education and:

(a) In a county whose population is 400,000 or more, a justice of the peace in a township whose population is 100,000 or more must be an attorney who is licensed and admitted to practice law in the courts of this State ~~[]~~ *at the time of his election or appointment and has been licensed and admitted to practice law in the courts of this State, another state or the District of Columbia for not less than 5 years at any time preceding his election or appointment.*

(b) In a county whose population is less than 400,000, a justice of the peace in a township whose population is 250,000 or more must be an attorney who is licensed and admitted to practice law in the courts of this State ~~[]~~ *at the time of his election or appointment and has been licensed and admitted to practice law in the courts of this State, another state or the District of Columbia for not less than 5 years at any time preceding his election or appointment.*

3. Subsection 2 does not apply to any person who held the office of justice of the peace on June 30, ~~[1999.]~~ *2001.*

Sec. 4. 1. The Legislature hereby finds and declares that:

(a) The State of Nevada continues to have the highest rate of population growth in the country;

(b) The growth in population has also caused the volume of cases filed in the courts of this State to grow exponentially;



(c) This increased caseload has placed a large burden on the Nevada Supreme Court to review and decide appeals from the lower courts;

(d) The burden on the judiciary has caused concern about the adequacy of the current judicial structure;

(e) The Legislature has a duty to provide for the funding of the State, including for a portion of the funding for the courts in this State; and

(f) To ensure its ability to appropriately budget and provide for the needs of the Judicial Branch of State Government, it would be beneficial to the Legislature if the Nevada Supreme Court would conduct a study and submit a report of the study with recommendations to the 74th Session of the Nevada Legislature analyzing whether the State of Nevada would benefit from the establishment of an intermediate appellate court which includes consideration of:

(1) The increase in the number of cases submitted to each level of court in this State during the last 5 years;

(2) The effect that the establishment of an intermediate appellate court would have on the other courts in this State;

(3) The impact that the establishment of an intermediate appellate court would have on the judicial process in this State; and

(4) Any other matter relevant to the consideration of the establishment of an intermediate appellate court in this State.

2. If the Nevada Supreme Court recommends the establishment of an intermediate appellate court in this State, it would be beneficial for the study and report to include an analysis of:

(a) The appropriate number, qualifications and terms of judges who would serve on such a court;

(b) The facilities and staff that would be necessary for such a court;

(c) The jurisdiction to be assigned to such a court;

(d) The manner in which such a court would be integrated into the Judicial Branch of State Government; and

(e) The cost of establishing an intermediate appellate court and the fiscal impact that creating such a court would have on the other courts in this State.

Sec. 5. The amendatory provisions of this act do not abrogate or affect the current term of office of any justice of the Supreme Court, district judge or justice of the peace who is serving in that office on October 1, 2005.

