

SENATE BILL NO. 213—SENATOR WASHINGTON

MARCH 13, 2009

Referred to Committee on Government Affairs

SUMMARY—Revises the Charter of the City of Sparks to make various changes in provisions concerning city government. (BDR S-462)

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 City of Sparks; amending the Charter of the City of Sparks to revise the process for appointing various positions in city government; revising the selection process for Mayor pro tempore; requiring that the candidates for Councilman in the City be voted for in a general election only by the registered voters of the ward that a candidate seeks to represent; revising the list of classes of persons protected from employment discrimination by the City; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill revises the Charter of the City of Sparks to permit the City Manager to appoint the heads of departments and various executive, administrative and professional employees without confirmation by the City Council. **Sections 4 and 7** of this bill revise the Charter to make consistent the classes of persons protected from employment discrimination.

Under the existing Charter, the City Council elects the Mayor pro tempore from its members. (Sparks City Charter § 3.010) **Section 5** of this bill amends the Charter to authorize the Mayor to nominate a member of the City Council to be Mayor pro tempore, subject to the approval of the majority of the City Council. **Sections 1 and 5** also clarify that if the office of Mayor is vacant, the Mayor pro tempore shall act as Mayor until the next general election.

The existing Charter also provides that the candidates for Councilman to represent a particular ward must be voted on in a primary election only by the registered voters of that ward but, in a general election, must be voted on by the registered voters of the City at large. (Sparks City Charter, §§ 5.010, 5.020) **Sections 6.3 and 6.7** of this bill amend the Charter to provide that all candidates for



17 Councilman must be voted on in a general election by only the registered voters of
18 the ward that a candidate seeks to represent.

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

1 **Section 1.** Section 1.070 of the Charter of the City of Sparks,
2 being chapter 470, Statutes of Nevada 1975, as last amended by
3 chapter 41, Statutes of Nevada 2001, at page 395, is hereby
4 amended to read as follows:

5 Sec. 1.070 Elective offices; vacancies. Except as
6 otherwise provided in NRS 268.325:

7 1. A vacancy in the City Council ~~or~~ or in the office of
8 City Attorney or Municipal Judge must be filled by
9 appointment of the Mayor, subject to confirmation by the
10 City Council, within 30 days after the occurrence of the
11 vacancy. A person may be selected to fill a prospective
12 vacancy in the City Council before the vacancy occurs. In
13 such a case, each member of the Council, except any member
14 whose term of office expires before the occurrence of the
15 vacancy, may participate in any action taken by the Council
16 pursuant to this section. If the majority of the Council is
17 unable or refuses for any reason to confirm any appointment
18 made by the Mayor within 30 days after the vacancy occurs,
19 the City Council shall present to the Mayor the names of two
20 qualified persons to fill the vacancy. The Mayor shall, within
21 15 days after the presentation, select one of the two qualified
22 persons to fill the vacancy. The appointee must have the
23 same qualifications required of the elected official.

24 2. A vacancy in the office of the Mayor must be filled by
25 the Mayor pro tempore. The resulting vacancy in the City
26 Council must be filled as provided in subsection 1.

27 3. The appointee or Mayor pro tempore, in *the* case of a
28 vacancy in the office of Mayor, shall serve until his
29 successor is elected and qualified at the next *general* election
30 to serve the remainder of the unexpired term.

31 **Sec. 2.** Section 1.080 of the Charter of the City of Sparks,
32 being chapter 470, Statutes of Nevada 1975, as last amended by
33 chapter 129, Statutes of Nevada 1993, at page 229, is hereby
34 amended to read as follows:

35 Sec. 1.080 Appointive positions.

36 1. The Mayor of the City shall appoint a City Manager,
37 subject to confirmation by the City Council.



2. ~~[Subject to confirmation by the City Council,]~~ *Except as otherwise provided in this Charter,* the City Manager shall appoint ~~[-~~

~~—(a) The] the~~ heads of ~~[the Fire and Police departments and one technical assistant in each of those departments. A technical assistant may not supervise any other employees.~~

~~—(b) Any] each department.~~

3. *Except as otherwise provided in this Charter, the City Manager or his designee may appoint any* employee employed in a bona fide executive, administrative or professional capacity. As used in this ~~[paragraph:~~

~~—(1)] subsection:~~

(a) “Employee employed in a bona fide executive capacity” has the meaning ascribed to it in 29 C.F.R. § ~~[541.1, as that section existed on October 1, 1993.~~

~~—(2)] 541.100.~~

(b) “Employee employed in a bona fide administrative capacity” has the meaning ascribed to it in 29 C.F.R. § ~~[541.2, as that section existed on October 1, 1993.~~

~~—(3)] 541.200.~~

(c) “Employee employed in a bona fide professional capacity” has the meaning ascribed to it in 29 C.F.R. § ~~[541.3, as that section existed on October 1, 1993.~~

~~—3.] 541.300.~~

4. The City ~~[Council]~~ *Manager* shall create and revise as necessary a document which:

(a) Describes the organization of all departments, divisions and offices of the City; and

(b) Sets forth all appointive positions of the City.

Sec. 3. Section 1.100 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as amended by chapter 450, Statutes of Nevada 1985, at page 1310, is hereby amended to read as follows:

Sec. 1.100 Mayor and Councilmen not to hold other office.

1. The Mayor and a member of the Council may not:

(a) Hold any other elective office with the State of Nevada, Washoe County, the City of Sparks or any other city, except as provided by law.

(b) ~~[Be]~~ *Except as otherwise provided in subsection 3 of section 3.010, be* appointed to any position created by , or the compensation for which was increased or fixed by , the City Council until 1 year after the expiration of the term for which such person was elected.



2. Any person holding any office proscribed by subsection 1 automatically forfeits his office as Mayor or member of the Council.

Sec. 4. Section 1.130 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 457, Statutes of Nevada 1979, at page 852, is hereby amended to read as follows:

Sec. 1.130 Certain activities prohibited.

1. A person shall not be appointed to or removed from, or in any way favored or discriminated against with respect to, any City position or appointive City administrative office because of race, sex, ~~religious creed,~~ *sexual orientation, religion,* color, *age, disability, marital status or* national origin, ~~ancestry or political affiliations,~~ *or because of political or personal reasons or affiliations, except when based upon a bona fide occupational qualification.*

2. A person who seeks appointment or promotion with respect to any City position or appointive City administrative office shall not directly or indirectly give, render or pay any money, service or other valuable thing to any person for or in connection with his test, appointment, proposed appointment, promotion or proposed promotion.

3. A person shall not orally, in writing or otherwise solicit or assist in soliciting any assessment, subscription or contribution for any elected officer of the City or candidate for any City office from any person holding any compensated appointive City position.

4. A person who holds any compensated appointive City position shall not make, solicit or receive any contribution of campaign funds for any elected officer of the City or candidate for any City office or take any part in the management, affairs or political campaign of the candidate.

5. Any person who by himself or with others willfully violates any of the provisions of subsections 1 ~~to 3, inclusive,~~ *2 or 3* is subject to the jurisdiction of the Justice Court of the Township of Sparks and is guilty of a misdemeanor, punishable by a fine of not more than \$500 or by imprisonment for not more than 6 months, or both.

6. Any person who violates any of the provisions of this section shall be ineligible to hold any City office or position for a period of 5 years and, if he is an officer or employee of the City, shall immediately forfeit his office or position.



1 **Sec. 5.** Section 3.010 of the Charter of the City of Sparks,
2 being chapter 470, Statutes of Nevada 1975, as last amended by
3 chapter 107, Statutes of Nevada 2003, at page 603, is hereby
4 amended to read as follows:

5 Sec. 3.010 Mayor: Duties; Mayor pro tempore.

6 1. The Mayor shall:

7 (a) Preside over the meetings of the City Council, but is
8 not entitled to vote on any procedural, substantive or other
9 matter.

10 (b) Act as the head of the government of the City for all
11 purposes.

12 (c) Perform such emergency duties as may be necessary
13 for the general health, welfare and safety of the City.

14 (d) Perform such other duties as may be prescribed by
15 ordinance or by the provisions of Nevada Revised Statutes
16 which apply to a mayor.

17 2. The Mayor may veto all matters passed by the City
18 Council if he gives notice in writing to the City Clerk within
19 10 days of the action taken by the City Council. A veto may
20 be overturned only by a vote of at least four-fifths of the City
21 Council. An action requiring the expenditure of money is not
22 effective without the approval of the Mayor, unless he does
23 not disapprove the action within 10 days after it is taken by
24 the City Council, or the City Council by a four-fifths
25 majority approves such expenditure at a regular meeting.

26 3. The ~~{City Council shall elect one of its members}~~
27 *Mayor shall nominate a member of the City Council* to be
28 Mayor pro tempore. *The nominee must be approved by a*
29 *majority of the total number of members of the City*
30 *Council. If so approved, the nominee shall be Mayor pro*
31 *tempore.* He shall:

32 (a) Hold the office and title until the next *general* election
33 without additional compensation, except as otherwise
34 provided in paragraph (c).

35 (b) Perform the duties of Mayor during the temporary
36 absence or disability of the Mayor without loss of his rights
37 and powers as a member of the Council.

38 (c) Act as Mayor until the next *general* election if the
39 office of Mayor becomes vacant and draw the salary of
40 Mayor. His salary and position as a member of the Council
41 cease.



1 **Sec. 6.** Section 3.020 of the Charter of the City of Sparks,
2 being chapter 470, Statutes of Nevada 1975, as last amended by
3 chapter 450, Statutes of Nevada 1985, at page 1315, is hereby
4 amended to read as follows:

5 Sec. 3.020 City Manager: Duties; residence.

6 1. The City Manager is responsible to the Council for
7 the efficient administration of all the affairs of the City. He
8 shall:

9 (a) Exercise a careful supervision of the City's general
10 affairs.

11 (b) Enforce all laws and all acts of the Council which are
12 subject to enforcement by him or by persons under his
13 supervision.

14 (c) Exercise control over all departments of the City
15 government and its officers and employees . ~~[-except any~~
16 ~~department whose chief executive officer is not appointed by~~
17 ~~the City Manager.]~~

18 (d) Attend all meetings of the Council and its committees,
19 except when the Council is considering his removal, with the
20 right to take part in discussions, but without power to vote.

21 (e) Recommend to the Council the adoption of such
22 measures and bills as he considers necessary or expedient.

23 (f) Make investigations into:

24 (1) The affairs of the City;

25 (2) Any department or division of the City;

26 (3) Any contract; or

27 (4) The proper performance of any obligation owed to
28 the City.

29 (g) Prepare and submit to the Council the annual budget.

30 (h) Keep the Council fully informed as to the financial
31 condition and needs of the City.

32 (i) Submit to the Council, at least once each month, a
33 summary of all claims and bills approved for payment by
34 him.

35 (j) Not engage in any other business or occupation
36 without the approval of the City Council.

37 (k) Perform such other duties as prescribed by this
38 Charter or be required by ordinance or resolution of the
39 Council.

40 2. The City Manager must establish his residence within
41 the City within 90 days after his appointment, unless the
42 period is extended by the Council. He must reside in the City
43 during his term of office.



1 **Sec. 6.3.** Section 5.010 of the Charter of the City of Sparks,
2 being chapter 470, Statutes of Nevada 1975, as last amended by
3 chapter 52, Statutes of Nevada 2005, at page 104, is hereby
4 amended to read as follows:

5 Sec. 5.010 General elections.

6 1. ~~[On the Tuesday after the first Monday in June 2001,~~
7 ~~there must be elected by the registered voters of the City, at a~~
8 ~~general municipal election, Council members to represent the~~
9 ~~first, third and fifth wards, a Municipal Judge for Department~~
10 ~~1 and a City Attorney, all of whom hold office until their~~
11 ~~successors have been elected and qualified, pursuant to~~
12 ~~subsection 3 or 4.~~

13 ~~—2. On the Tuesday after the first Monday in June 2003,~~
14 ~~there must be elected by the registered voters of the City, at a~~
15 ~~general municipal election, Council members to represent the~~
16 ~~second and fourth wards, a Mayor and a Municipal Judge for~~
17 ~~Department 2, all of whom hold office until their successors~~
18 ~~have been elected and qualified, pursuant to subsection 5~~
19 ~~or 6.~~

20 ~~—3.]~~ On the Tuesday after the first Monday in
21 November 2004, and at each successive interval of 4 years,
22 there must be elected , ~~[by the registered voters of the City,]~~
23 at the general election, Council members to represent the
24 first, third and fifth wards and a City Attorney, all of whom
25 hold office for a term of 4 years and until their successors
26 have been elected and qualified.

27 ~~[4. On the Tuesday after the first Monday in~~
28 ~~November 2004, and at each successive interval of 4 years,~~
29 ~~there must be elected by the registered voters of the City, at~~
30 ~~the general election, a Municipal Judge for Department 1,~~
31 ~~who holds office for a term of 4 years and until his successor~~
32 ~~has been elected and qualified, pursuant to subsection 7.~~

33 ~~—5.]~~ 2. On the Tuesday after the first Monday in
34 November 2006, and at each successive interval of 4 years,
35 there must be elected , ~~[by the registered voters of the City,]~~
36 at the general election, Council members to represent the
37 second and fourth wards and a Mayor, all of whom hold
38 office for a term of 4 years and until their successors have
39 been elected and qualified.

40 ~~[6.]~~ 3. On the Tuesday after the first Monday in
41 November 2006, and at each successive interval of 6 years,
42 there must be elected , ~~[by the registered voters of the City,]~~
43 at the general election, a Municipal Judge for Department 2,
44 who holds office for a term of 6 years and until his successor
45 has been elected and qualified.



~~[7.]~~ 4. On the Tuesday after the first Monday in November 2008, and at each successive interval of 6 years, there must be elected , ~~[by the registered voters of the City.]~~ at the general election, a Municipal Judge for Department 1, who holds office for a term of 6 years and until his successor has been elected and qualified.

~~[8.—All candidates at]~~

5. *In* an election that is held pursuant to this section :

(a) *Candidates for the offices of Mayor, City Attorney and Municipal Judge* must be voted upon by the registered voters of the City at large.

(b) *A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.*

Sec. 6.7. Section 5.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 41, Statutes of Nevada 2001, at page 398, is hereby amended to read as follows:

Sec. 5.020 Primary elections.

1. *At an election that is held pursuant to this section:*

(a) Candidates for the offices of Mayor, City Attorney and Municipal Judge must be voted upon by the registered voters of the City at large. ~~[Candidates to represent a ward as a member of the City Council]~~

(b) *A candidate for the office of City Councilman* must be voted upon *only* by the registered voters of the ward ~~[to be represented by them.]~~ *that he seeks to represent.*

2. The names of the two candidates for Mayor, City Attorney and Municipal Judge and the names of the two candidates to represent the ward as a member of the City Council from each ward who receive the highest number of votes at the primary election must be placed on the ballot for the general election.

Sec. 7. Section 9.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 350, Statutes of Nevada 1987, at page 793, is hereby amended to read as follows:

Sec. 9.080 Prohibited acts. An employee of the City who has authority to recommend, effectuate or approve the hiring, removal, promotion or discipline of another employee of the City shall not:

1. Discriminate for or against an employee or applicant for employment on the basis of race, color, national origin, religion, age, sex, marital status, ~~[political affiliation or physical, aural or visual handicap.]~~ *sexual orientation or*



1 *disability, or because of political or personal reasons or*
2 *affiliations,* except when based upon a bona fide
3 occupational qualification;

4 2. Solicit or consider a written or oral recommendation
5 or statement concerning a person under consideration for
6 hiring, removal, promotion or discipline, except for:

7 (a) A record of employment of the person maintained by
8 an employer in the regular course of business; or

9 (b) An evaluation of the person's character, loyalty,
10 ability, aptitude, suitability, qualifications or history of
11 performance, if within the personal knowledge of the person
12 furnishing the evaluation and if relevant to the position for
13 which the person is under consideration;

14 3. Coerce an employee to engage in a political activity
15 or to provide, or retaliate against an employee for refusing to
16 provide, a political contribution or service;

17 4. Deceive or willfully obstruct a person regarding his
18 right to seek a position of employment;

19 5. Influence a person to withdraw from seeking a
20 position of employment to assist or obstruct another person
21 who seeks such a position;

22 6. Except as specifically authorized by an ordinance,
23 administrative rule or regulation, or state or federal law, grant
24 a preference or advantage to an employee or applicant for
25 employment, including defining the scope or manner of
26 competition or the requirements for a position of
27 employment, to assist or obstruct any person who seeks such
28 a position;

29 7. Retaliate against an employee or applicant for
30 employment for disclosing information he reasonably
31 believes to evidence:

32 (a) A violation of an ordinance, administrative rule or
33 regulation, or state or federal law; or

34 (b) A mismanagement or gross waste of money, an abuse
35 of authority, or a situation that presents a substantial and
36 specific danger to the public health or safety, unless the
37 disclosure is:

38 (1) Specifically prohibited by a contract to which the
39 City is a party and not required by an ordinance,
40 administrative rule or regulation, or state or federal law; or

41 (2) Prohibited by an ordinance, administrative rule or
42 regulation, or state or federal law; or

43 8. Retaliate against an employee or applicant for
44 employment for exercising a right of appeal provided by an



1 ordinance, administrative rule or regulation, or state or
2 federal law.

3 **Sec. 8.** This act becomes effective:

4 1. Upon passage and approval for the purpose of passing any
5 ordinances and performing any preparatory administrative tasks that
6 are necessary to carry out the provisions of this act; and

7 2. On July 1, 2009, for all other purposes.

