

Amendment No. 592

Senate Amendment to Assembly Bill No. 407 First Reprint (BDR 23-606)

Proposed by: Senate Committee on Legislative Operations and Elections**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SJA/HAC



Date: 5/9/2013

A.B. No. 407—Revises provisions governing residency requirements for candidates for public office. (BDR 23-606)



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:

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

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

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

Section 4 of this bill clarifies that a person who receives a certificate of election or appointment to office as a Legislator may be removed from office by reason of not residing in the district from which he or she is a Legislator only through expulsion from the Legislator's own House pursuant to Section 6 of Article 4 of the Nevada Constitution, except that the

election of a person to office as a Legislator may be contested on the grounds that the person does not reside in the district from which he or she is a Legislator pursuant to provisions regarding the contest of elections. (NRS 293.407-293.435)

Section 14 of this bill provides that in a contest of a general election for the office of Assemblyman, Assemblywoman or Senator, if the House in which the contest was tried or was to be tried finds that the contest or defense of the contest was brought or maintained without reasonable ground or to harass the prevailing party, the House may require the party who is not the prevailing party to pay costs, including attorney's fees ~~_, for both,~~ not to exceed ~~the amount of~~ \$4,500.

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

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

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

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

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

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

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

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

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

(b) State office if the holder of the office is removable from office only through impeachment pursuant to Article 7 of the Nevada Constitution, after the deadline set forth in NRS 293.165 and 293.166 for making a change on the ballot for a general election.

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

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

(a) The death or resignation of the incumbent.

(b) The removal of the incumbent from office.

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

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

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

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

(g) The neglect or refusal of the incumbent to discharge the duties of the incumbent's office for a period of 30 days, except when prevented by sickness or absence from the State or county, as provided by law. In a county whose population is less than 15,000, after an incumbent, other than a state officer, has been prevented by sickness from discharging the duties of the incumbent's office for at least 6 months, the district attorney, either on the district attorney's own volition or at the request of another person, may petition the district court to declare the office vacant. If the incumbent holds the office of district attorney, the Attorney General, either on the Attorney General's own volition or at the request of another person, may petition the district court to declare the office vacant. The district court shall hold a hearing to determine whether to declare the office vacant and, in making its determination, shall consider evidence relating to:

(1) The medical condition of the incumbent;

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

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

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

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

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

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

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

283.140 1. Any state officer shall be liable to impeachment for misdemeanor or malfeasance in office pursuant to Article 7 of the Nevada Constitution. *A state officer ~~who is not a judicial officer~~ commits malfeasance in office for the purposes of Article 7 of the Nevada Constitution by ceasing to reside in this State in violation of the provisions of NRS 281.050, ~~and a judicial~~*

~~officer other than a justice of the peace commits malfeasance in office for the purposes of Article 7 of the Nevada Constitution by ceasing to reside in the district in which he or she is required to reside to be a candidate for the judicial office in violation of the provisions of NRS 281.050.~~

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

(a) Justices of the peace; and

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

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

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

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

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

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

1. Is a qualified elector;

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) In this State; and

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

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

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

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

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

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

(a) In this State; and

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

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

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

(b) The membership of the particular board, commission, committee, council, authority or similar body includes residents of another state and the provisions of

subsection 1 would conflict with a requirement that applies to all members of that body.

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

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

(a) In this State; and

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

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

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

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

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

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

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

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

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

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

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

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

293.166 1. A vacancy occurring in a party nomination for the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county may be filled as follows, subject to the provisions of subsections 2 and 3. The county commissioners of each county, all or part of which is included within the legislative district, shall meet to appoint a person who is of the same political party as the former nominee and who ~~factually, as opposed to constructively,~~ *in accordance with the provisions of NRS 281.050*, resides in the district to fill the vacancy, with the chair of the board of county commissioners of the county whose population residing within the district is the greatest presiding. Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy. Then, the boards shall meet jointly and the chairs on behalf of the boards shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of its county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce. The person who receives a plurality of these votes is appointed to fill the vacancy. If no person

receives a plurality of the votes, the boards of county commissioners of the respective counties shall each as a group select one candidate, and the nominee must be chosen by drawing lots among the persons so selected.

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

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

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

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

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

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

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

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

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

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

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

(a) For partisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I ~~actually, as opposed to constructively,~~ reside at, in the City or Town of, County of, State of Nevada; that my ~~actual, as opposed to constructive,~~ residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the

close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since December 31 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

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

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

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

County of

For the purpose of having my name placed on the official ballot as a candidate for the office of, I, the undersigned, do swear or affirm under penalty of perjury that I ~~actually, as opposed to constructively,~~ reside at, in the City or Town of, County of, State of Nevada; that my ~~actual, as opposed to constructive,~~ residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been

restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

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

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

.....
Notary Public or other person
authorized to administer an oath

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

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

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

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

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

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

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

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

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

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

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

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

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

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

293.181 1. A candidate for the office of State Senator, Assemblyman or Assemblywoman must execute and file with his or her declaration of candidacy or acceptance of candidacy a declaration of residency which must be in substantially the 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 ~~factually, 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 ~~factually, 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.

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

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

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

~~(a) Any~~ *any* costs, ~~as defined in NRS 18.005,~~ *including, without limitation, attorney's fees, actually and necessarily* incurred by ~~the~~ *the prevailing* party in connection with the contest ~~in an amount not to exceed \$500.~~

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

~~(c) Costs and attorney's fees as provided in paragraphs (a) and (b).;~~

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

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

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

DECLARATION OF CANDIDACY OF FOR THE
OFFICE OF

State of Nevada

City of.....

For the purpose of having my name placed on the official ballot as a candidate for the office of, I,, the undersigned do swear or affirm under

penalty of perjury that I ~~factually, as opposed to constructively,~~ reside at
....., in the City or Town of, County of, State of
Nevada; that my ~~actual, as opposed to constructive,~~ residence in the city,
township or other area prescribed by law to which the office pertains began on a
date at least 30 days immediately preceding the date of the close of filing of
declarations of candidacy for this office; that my telephone number is,
and the address at which I receive mail, if different than my residence, is
.....; that I am a qualified elector pursuant to Section 1 of Article 2 of the
Constitution of the State of Nevada; that if I have ever been convicted of treason or
a felony, my civil rights have been restored by a court of competent jurisdiction;
that if nominated as a candidate at the ensuing election I will accept the nomination
and not withdraw; that I will not knowingly violate any election law or any law
defining and prohibiting corrupt and fraudulent practices in campaigns and
elections in this State; that I will qualify for the office if elected thereto, including,
but not limited to, complying with any limitation prescribed by the Constitution and
laws of this State concerning the number of years or terms for which a person may
hold the office; and my name will appear on all ballots as designated in this
declaration.

.....
(Designation of name)

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

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

.....
Notary Public or other person
authorized to administer an oath

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

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

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

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

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

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

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

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

1 5. By filing the declaration or acceptance of candidacy, the candidate shall be
2 deemed to have appointed the city clerk as his or her agent for service of process
3 for the purposes of a proceeding pursuant to NRS 293C.186. Service of such
4 process must first be attempted at the appropriate address as specified by the
5 candidate in the declaration or acceptance of candidacy. If the candidate cannot be
6 served at that address, service must be made by personally delivering to and leaving
7 with the city clerk duplicate copies of the process. The city clerk shall immediately
8 send, by registered or certified mail, one of the copies to the candidate at the
9 specified address, unless the candidate has designated in writing to the city clerk a
10 different address for that purpose, in which case the city clerk shall mail the copy to
11 the last address so designated.

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

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

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

20 7. The receipt of information by the city attorney pursuant to subsection 6
21 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of
22 NRS 293C.186. If the ballots are printed before a court of competent jurisdiction
23 makes a determination that a candidate has been convicted of a felony and has not
24 had his or her civil rights restored by a court of competent jurisdiction, the city
25 clerk must post a notice at each polling place where the candidate's name will
26 appear on the ballot informing the voters that the candidate is disqualified from
27 entering upon the duties of the office for which the candidate filed the declaration
28 of candidacy or acceptance of candidacy.

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

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

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