

SENATE BILL NO. 393—SENATOR SMITH

MARCH 18, 2013

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing the procedure for filling certain vacancies in a nomination. (BDR 24-535)

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 elections; revising provisions governing the procedure for filling a vacancy in a major political party nomination; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if a vacancy occurs in a major political party nomination for a partisan office before 5 p.m. on the fourth Friday in June of an election year, the vacancy may be filled by a candidate designated by the party central committee of the county or the State, as the case may be, of the major political party. (NRS 293.165) If a vacancy occurs before that time and date in a party nomination for the office of a state legislator from a legislative district comprising more than one county, the county commissioners of those counties must appoint a candidate to fill the vacancy based on a specified procedure. (NRS 293.166)

This bill provides that the procedures in NRS 293.165 and 296.166 for filling a vacancy in a nomination that occurs after the primary election and before 5 p.m. on the fourth Friday in June of an election year apply only if the vacancy occurs because the nominee dies or is adjudicated insane or mentally incompetent. If the vacancy occurs for any other reason, the nominee's name must remain on the ballot for the general election and, if elected, a vacancy in the office exists, to be filled in the manner provided by law for filling that vacancy.

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

Section 1. NRS 293.165 is hereby amended to read as follows:
293.165 1. Except as otherwise provided in NRS 293.166, a
vacancy occurring in a major or minor political party nomination for



1 a partisan office may be filled by a candidate designated by the
2 party central committee of the county or State, as the case may be,
3 of the major political party or by the executive committee of the
4 minor political party subject to the provisions of subsections 4 ~~and~~
5 ~~5~~, 5 and 6.

6 2. A vacancy occurring in a nonpartisan nomination after the
7 close of filing and on or before 5 p.m. of the second Tuesday in
8 April must be filled by filing a nominating petition that is signed by
9 registered voters of the State, county, district or municipality who
10 may vote for the office in question. The number of registered voters
11 who sign the petition must not be less than 1 percent of the number
12 of persons who voted for the office in question in the State, county,
13 district or municipality at the last preceding general election. The
14 petition must be filed not earlier than the first Tuesday in March and
15 not later than the fourth Tuesday in April. The petition may consist
16 of more than one document. Each document must bear the name of
17 one county and must be signed only by a person who is a registered
18 voter of that county and who may vote for the office in question.
19 Each document of the petition must be submitted for verification
20 pursuant to NRS 293.1276 to 293.1279, inclusive, to the county
21 clerk of the county named on the document. A candidate nominated
22 pursuant to the provisions of this subsection:

23 (a) Must file a declaration of candidacy or acceptance of
24 candidacy and pay the statutory filing fee on or before the date the
25 petition is filed; and

26 (b) May be elected only at a general election, and the
27 candidate's name must not appear on the ballot for a primary
28 election.

29 3. A vacancy occurring in a nonpartisan nomination after
30 5 p.m. of the second Tuesday in April and on or before 5 p.m. on the
31 fourth Friday in June of the year in which the general election is
32 held must be filled by the person who receives the next highest vote
33 for the nomination in the primary.

34 4. *If a vacancy occurs in a major political party nomination*
35 *for a partisan office after the primary election and before 5 p.m.*
36 *on the fourth Friday in June of the year in which the general*
37 *election is held and:*

38 (a) *The vacancy occurs because the nominee dies or is*
39 *adjudicated insane or mentally incompetent, the vacancy may be*
40 *filled by a candidate designated by the party central committee of*
41 *the county or State, as the case may be, of the major political*
42 *party.*

43 (b) *The vacancy occurs for a reason other than the reasons*
44 *described in paragraph (a), the nominee's name must remain on*
45 *the ballot for the general election and, if elected, a vacancy exists.*



1 **5.** No change may be made on the ballot for the general
2 election after 5 p.m. on the fourth Friday in June of the year in
3 which the general election is held. If a nominee dies *or is*
4 *adjudicated insane or mentally incompetent* after that time and
5 date, the nominee's name must remain on the ballot for the general
6 election and, if elected, a vacancy exists.

7 ~~15-1~~ **6.** All designations provided for in this section must be
8 filed on or before 5 p.m. on the fourth Friday in June of the year in
9 which the general election is held. In each case, the statutory filing
10 fee must be paid and an acceptance of the designation must be filed
11 on or before 5 p.m. on the date the designation is filed.

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
14 office of State Senator, Assemblyman or Assemblywoman from a
15 legislative district comprising more than one county may be filled as
16 follows, subject to the provisions of subsections 2 ~~and 3-1~~, *3 and 4.*
17 The county commissioners of each county, all or part of which is
18 included within the legislative district, shall meet to appoint a
19 person who is of the same political party as the former nominee and
20 who actually, as opposed to constructively, resides in the district to
21 fill the vacancy, with the chair of the board of county
22 commissioners of the county whose population residing within the
23 district is the greatest presiding. Each board of county
24 commissioners shall first meet separately and determine the single
25 candidate it will nominate to fill the vacancy. Then, the boards shall
26 meet jointly and the chairs on behalf of the boards shall cast a
27 proportionate number of votes according to the percent, rounded to
28 the nearest whole percent, which the population of its county is of
29 the population of the entire district. Populations must be determined
30 by the last decennial census or special census conducted by the
31 Bureau of the Census of the United States Department of
32 Commerce. The person who receives a plurality of these votes is
33 appointed to fill the vacancy. If no person receives a plurality of the
34 votes, the boards of county commissioners of the respective counties
35 shall each as a group select one candidate, and the nominee must be
36 chosen by drawing lots among the persons so selected.

37 2. *If a vacancy occurs in a party nomination for the office of*
38 *State Senator, Assemblyman or Assemblywoman from a legislative*
39 *district comprising more than one county after the primary*
40 *election and before 5 p.m. on the fourth Friday in June of the year*
41 *in which the general election is held and:*

42 (a) *The vacancy occurs because the nominee dies or is*
43 *adjudicated insane or mentally incompetent, the vacancy may be*
44 *filled pursuant to the provisions of subsection 1.*



(b) The vacancy occurs for a reason other than the reasons described in paragraph (a), the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.

3. 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 *or is adjudicated insane or mentally incompetent* after that date, the nominee's name must remain on the ballot and, if elected, a vacancy exists.

~~13.1~~ 4. 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. 3. NRS 293C.115 is hereby amended to read as follows:

293C.115 1. The governing body of a city incorporated pursuant to general law may by ordinance provide for a primary city election and a general city election on:

(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or

(b) The dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to ~~15.1~~ 6, inclusive, of NRS 293.165, and in NRS 293.175, 293.177, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.

3. If a governing body of a city adopts an ordinance pursuant to subsection 1:

(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and

(b) Each elected city official holds office until the end of his or her term and until his or her successor has been elected and qualified.

Sec. 4. Section 96 of the Charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of municipal elections.

1. All municipal elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. All full terms of office in the City Council are 4 years, and Council Members must be elected at large without regard to precinct residency. Except as otherwise provided in



subsection 8, two full-term Council Members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council Members are to be elected in each year immediately following a federal presidential election. In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions. (Add. 17; Amd. 1; 11-5-1996)

3. In the event one or more 2-year term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available 2-year positions. (Add. 15; Amd. 2; 6-4-1991)

4. Except as otherwise provided in subsection 8, a primary municipal election must be held on the first Tuesday after the first Monday in April of each odd-numbered year and a general municipal election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.

5. A primary municipal election must not be held if no more than double the number of Council Members to be elected file as candidates. A primary municipal election must not be held for the office of Mayor if no more than two candidates file for that position. The primary municipal election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council Members to be elected. (Add. 17; Amd. 1; 11-5-1996)

6. If, in the primary municipal election, a candidate receives votes equal to a majority of voters casting ballots in that election, he or she shall be considered elected to one of the vacancies and his or her name shall not be placed on the ballot for the general municipal election. (Add. 10; Amd. 7; 6-2-1981)

7. In each primary and general municipal election, voters are entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the municipal elections. (Add. 11; Amd. 5; 6-7-1983)

8. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

9. If the City Council adopts an ordinance pursuant to subsection 8, the dates set forth in NRS 293.12755, in subsections 2 to ~~5~~ 6, inclusive, of NRS 293.165 and in



1 NRS 293.175, 293.177, 293.345 and 293.368 apply for the
2 purposes of conducting the primary municipal elections and
3 general municipal elections.

4 10. If the City Council adopts an ordinance pursuant to
5 subsection 8, the ordinance must not affect the term of office
6 of any elected official of the City serving in office on the
7 effective date of the ordinance. The next succeeding term for
8 that office may be shortened but may not be lengthened as a
9 result of the ordinance.

10 11. The conduct of all municipal elections must be under
11 the control of the City Council, which shall adopt by
12 ordinance all regulations which it considers desirable and
13 consistent with law and this Charter. Nothing in this Charter
14 shall be construed as to deny or abridge the power of the City
15 Council to provide for supplemental regulations for the
16 prevention of fraud in such elections and for the recount of
17 ballots in cases of doubt or fraud. (Add. 24; Amd. 1;
18 6-3-2003)

19 **Sec. 5.** Section 5.010 of the Charter of the City of Caliente,
20 being chapter 31, Statutes of Nevada 1971, as last amended by
21 chapter 218, Statutes of Nevada 2011, at page 954, is hereby
22 amended to read as follows:

23 Sec. 5.010 Municipal elections.

24 1. Except as otherwise provided in subsection 2:

25 (a) On the first Tuesday after the first Monday in June
26 1973, there must be elected by the qualified voters of the
27 City, at a general municipal election to be held for that
28 purpose, a Mayor and one Council Member who shall hold
29 office for a period of 4 years and until their successors have
30 been elected and qualified.

31 (b) On the first Tuesday after the first Monday in June
32 1975, and at each successive interval of 4 years thereafter,
33 there must be elected by the qualified voters of the City, at a
34 general municipal election to be held for that purpose, two
35 Council Members who shall hold office for a period of 4
36 years and until their successors have been elected and
37 qualified.

38 (c) On the first Tuesday after the first Monday in June
39 1975, there shall be elected by the qualified voters of the City
40 at a general municipal election to be held for that purpose one
41 Council Member who shall hold office for a period of 2 years
42 and until his or her successor has been elected and qualified.

43 (d) On the first Tuesday after the first Monday in June
44 1977, and at each successive interval of 4 years, there must be
45 elected by the qualified voters of the City, at a general



1 municipal election to be held for that purpose, a Mayor and
2 two Council Members, who shall hold office for a period of 4
3 years and until their successors have been elected and
4 qualified.

5 2. The City Council may by ordinance provide for a
6 primary municipal election and general municipal election on
7 the dates set forth for primary elections and general elections
8 pursuant to the provisions of chapter 293 of NRS.

9 3. If the City Council adopts an ordinance pursuant to
10 subsection 2, the dates set forth in NRS 293.12755, in
11 subsections 2 to ~~5~~ 6, inclusive, of NRS 293.165 and in NRS
12 293.175, 293.177, 293.345 and 293.368 apply for the
13 purposes of conducting the primary municipal elections and
14 general municipal elections.

15 4. If the City Council adopts an ordinance pursuant to
16 subsection 2, the term of office of any elected official may be
17 shortened but may not be lengthened as a result of the
18 ordinance.

19 **Sec. 6.** Section 5.020 of the Charter of the City of Henderson,
20 being chapter 266, Statutes of Nevada 1971, as last amended by
21 chapter 218, Statutes of Nevada 2011, at page 957, is hereby
22 amended to read as follows:

23 Sec. 5.020 General municipal election.

24 1. Except as otherwise provided in subsection 2:

25 (a) A general municipal election must be held in the City
26 on the first Tuesday after the first Monday in June of each
27 odd-numbered year and on the same day every 2 years
28 thereafter, at which time the registered voters of the City shall
29 elect city officers to fill the available elective positions.

30 (b) All candidates for the office of Mayor, Council
31 Member and Municipal Judge must be voted upon by the
32 registered voters of the City at large. The term of office for
33 members of the City Council and the Mayor is 4 years.
34 Except as otherwise provided in subsection 3 of section
35 4.015, the term of office for a Municipal Judge is 6 years.

36 (c) On the Tuesday after the first Monday in June 2001,
37 and every 6 years thereafter, there must be elected by the
38 qualified voters of the City, at a general municipal election to
39 be held for that purpose, a Municipal Judge for Department 1
40 who will hold office until his or her successor has been
41 elected and qualified.

42 (d) On the Tuesday after the first Monday in June 2003
43 and every 6 years thereafter, there must be elected by the
44 qualified voters of the City, at a general municipal election to
45 be held for that purpose, a Municipal Judge for Department 2



1 who will hold office until his or her successor has been
2 elected and qualified.

3 (e) On the Tuesday after the first Monday in June 2005,
4 and every 6 years thereafter, there must be elected by the
5 qualified voters of the City, at a general municipal election to
6 be held for that purpose, a Municipal Judge for Department 3
7 who will hold office until his or her successor has been
8 elected and qualified.

9 2. The City Council may by ordinance provide for a
10 primary municipal election and general municipal election on
11 the dates set forth for primary elections and general elections
12 pursuant to the provisions of chapter 293 of NRS.

13 3. If the City Council adopts an ordinance pursuant to
14 subsection 2, the dates set forth in NRS 293.12755, in
15 subsections 2 to ~~15~~ 6, inclusive, of NRS 293.165 and in NRS
16 293.175, 293.177, 293.345 and 293.368 apply for the
17 purposes of conducting the primary municipal elections and
18 general municipal elections.

19 4. If the City Council adopts an ordinance pursuant to
20 subsection 2, the ordinance must not affect the term of office
21 of any elected official of the City serving in office on the
22 effective date of the ordinance. The next succeeding term for
23 that office may be shortened but may not be lengthened as a
24 result of the ordinance.

25 **Sec. 7.** Section 5.020 of the Charter of the City of Las Vegas,
26 being chapter 517, Statutes of Nevada 1983, as amended by chapter
27 218, Statutes of Nevada 2011, at page 960, is hereby amended to
28 read as follows:

29 Sec. 5.020 General municipal election.

30 1. Except as otherwise provided in subsection 2, a
31 general municipal election must be held in the City on the
32 Tuesday after the first Monday in June of each odd-numbered
33 year and on the same day every 2 years thereafter, at which
34 time there must be elected those officers whose offices are
35 required to be filled by election in that year.

36 2. The City Council may by ordinance provide for a
37 primary municipal election and general municipal election on
38 the dates set forth for primary elections and general elections
39 pursuant to the provisions of chapter 293 of NRS.

40 3. If the City Council adopts an ordinance pursuant to
41 subsection 2, the dates set forth in NRS 293.12755, in
42 subsections 2 to ~~15~~ 6, inclusive, of NRS 293.165 and in NRS
43 293.175, 293.177, 293.345 and 293.368 apply for the
44 purposes of conducting the primary municipal elections and
45 general municipal elections.



4. If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

5. All candidates for elective office, except the office of Council Member, must be voted upon by the registered voters of the City at large.

Sec. 8. Section 5.025 of the Charter of the City of North Las Vegas, being chapter 218, Statutes of Nevada 2011, at page 961, is hereby amended to read as follows:

Sec. 5.025 City Council authorized to provide for primary and general municipal elections in even-numbered years.

1. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

2. If the City Council adopts an ordinance pursuant to subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to ~~15~~ 6, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

3. If the City Council adopts an ordinance pursuant to subsection 1, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

Sec. 9. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as amended by chapter 218, Statutes of Nevada 2011, at page 964, is hereby amended to read as follows:

Sec. 5.010 Municipal elections.

1. Except as otherwise provided in subsection 2:

(a) On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Mayor and two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.



(b) On the first Tuesday after the first Monday in June 1977, and at each successive interval of 4 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, two Council Members, who shall hold office for a period of 4 years and until their successors have been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to ~~15~~ 6, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the term of office of any elected official may be shortened but may not be lengthened as a result of the ordinance.

