

ASSEMBLY BILL NO. 461—COMMITTEE ON  
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE SECRETARY OF STATE)

MARCH 23, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing elections.  
(BDR 24-614)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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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; increasing the penalty for a candidate for office who files certain documents containing a false statement; revising the forms for declarations of candidacy, acceptances of candidacy and residency; requiring certain proofs of identity when filing for candidacy; providing for the payment of certain costs, expenses and attorney's fees for a successful challenge to the residency qualifications of a candidate for office; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides that a person who knowingly and willfully files a declaration or acceptance of candidacy which contains a false statement regarding residency is guilty of a gross misdemeanor. (NRS 293.1755, 293C.200) **Sections 2, 3 and 5** of this bill provide that knowingly and willfully filing a declaration of candidacy, acceptance of candidacy or declaration of residency with any false statement is punishable as a category C felony. **Sections 1 and 7** of this bill make conforming changes.

Existing law requires a candidate for office in a primary election to file a declaration or acceptance of candidacy and also, for the office of State Legislator, a declaration of residency, and when filing, the person must present the filing officer with proof of identity and residency. (NRS 293.177, 293.181, 293C.185) **Sections 2, 3 and 5** revise the forms for a declaration or acceptance of candidacy and declaration of residency to include a statement that the person understands that knowingly and willfully filing such a declaration with a false statement is



punishable as a category C felony. **Sections 2 and 5** also require the candidate to present the filing officer with two forms of proof of identity and residency.

Existing law allows an elector to challenge the qualifications of a person filing for candidacy. (NRS 293.182, 293C.186) **Sections 4 and 6** of this bill provide that if a court finds that the person knowingly and willfully made a false statement regarding residency when filing for candidacy, the person is required to pay the costs, expenses and attorney's fees incurred by the Attorney General, district attorney or city attorney, as applicable.

Existing law authorizes a district court to determine whether a candidate meets the residency requirement in an action for declaratory judgment. (NRS 281.050) **Section 8** of this bill provides that if the district court finds that the person knowingly and willfully made a false statement regarding residency when filing for candidacy, the person is required to pay the costs, expenses and attorney's fees of the prevailing party.

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

**Section 1.** 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. 2.** 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; *that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is punishable as a category C felony as provided in NRS 193.130*; 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



1 nominated as a nonpartisan candidate at the ensuing election,  
2 I will accept the nomination and not withdraw; that I will not  
3 knowingly violate any election law or any law defining and  
4 prohibiting corrupt and fraudulent practices in campaigns and  
5 elections in this State; that I will qualify for the office if  
6 elected thereto, including, but not limited to, complying with  
7 any limitation prescribed by the Constitution and laws of this  
8 State concerning the number of years or terms for which a  
9 person may hold the office; *that I understand that knowingly*  
10 *and willfully filing a declaration of candidacy or acceptance*  
11 *of candidacy which contains a false statement is punishable*  
12 *as a category C felony as provided in NRS 193.130; and that*  
13 *I understand that* my name will appear on all ballots as  
14 designated in this declaration.

15  
16 .....  
17 (Designation of name)

18  
19 .....  
20 (Signature of candidate for office)

21  
22 Subscribed and sworn to before me  
23 this ..... day of the month of ..... of the year .....

24  
25 .....  
26 Notary Public or other person  
27 authorized to administer an oath  
28

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

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

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

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

42 (2) A current utility bill, bank statement, paycheck, or  
43 document issued by a governmental entity, including a check which  
44 indicates the candidate's name and residential address, but not  
45 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.

***8. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false***



*statement is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

**Sec. 3.** 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 ; *that I understand that knowingly and willfully filing a declaration of residency which contains a false statement is punishable as a category C felony as provided in NRS 193.130;* and *that I* have actually, 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 .....  
Dates of Residency

From ..... To .....  
Dates of Residency

.....  
Street Address

.....  
Street Address

.....  
City or Town

.....  
City or Town

.....  
State

.....  
State

From ..... To .....  
Dates of Residency

From ..... To .....  
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 actually, 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.

*3. Any person who knowingly and willfully files a declaration of residency which contains a false statement is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

**Sec. 4.** NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 days after the last day the person may withdraw his or her candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, including, without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

- (a) Indicate each qualification the person fails to meet;
- (b) Have attached all documentation and evidence supporting the challenge; and
- (c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the





Constitution or a statute of this State, or if the person fails to appear at the hearing:

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

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

6. *If, at the hearing, the court determines that the person fails to meet a qualification required for office concerning residency and the person knowingly and willfully filed a declaration of candidacy or acceptance of candidacy which contained a false statement in this respect, the person shall pay the costs, expenses and attorney's fees incurred by the Attorney General or district attorney.*

7. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

**Sec. 5.** 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 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 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; *that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is punishable as a category C felony as provided in NRS 193.130; 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

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 actually, 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; ~~for~~ and

(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 city clerk as his or her agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. 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 city clerk duplicate copies of the process. The city clerk 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 city clerk a different address for that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk 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 city clerk:

(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 city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. 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 city clerk 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.

*8. Any person who knowingly and willfully files a declaration of candidacy or acceptance of candidacy which contains a false statement is guilty of a category C felony and shall be punished as provided in NRS 193.130.*

**Sec. 6.** NRS 293C.186 is hereby amended to read as follows:

293C.186 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than 5 working days after the last day the person may withdraw his or her candidacy pursuant to NRS 293C.195, an elector may file with the city clerk a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the constitution or a statute of this State, including, without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;  
(b) Have attached all documentation and evidence supporting the challenge; and  
(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

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

4. If the city attorney determines that probable cause exists to support the challenge, the city attorney shall, not later than 5 days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the constitution or a statute of this State, or if the person fails to appear at the hearing:



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

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

6. *If, at the hearing, the court determines that the person fails to meet a qualification required for office concerning residency and the person knowingly and willfully filed a declaration or acceptance of candidacy which contained a false statement in this respect, the person shall pay the costs, expenses and attorney's fees incurred by the city attorney.*

7. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

**Sec. 7.** NRS 293C.200 is hereby amended to read as follows:

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

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

**Sec. 8.** 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 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



1 person shall be deemed to have moved the person's residence for the  
2 purposes of this section if:

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

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

6 3. The district court has jurisdiction to determine the question  
7 of residence in an action for declaratory judgment.

8 4. *If, in an action for declaratory judgment, the district court*  
9 *determines that a person knowingly and willfully misrepresented*  
10 *the person's actual residence when filing as a candidate for office,*  
11 *the person shall pay the costs, expenses and attorney's fees of the*  
12 *prevailing party.*

13 5. As used in this section, "actual residence" means the place  
14 where a person is legally domiciled and maintains a permanent  
15 habitation. If the person maintains more than one such habitation,  
16 the place the person declares to be the person's principal permanent  
17 habitation when filing a declaration or affidavit pursuant to NRS  
18 293.177 or 293C.185 shall be deemed to be the person's actual  
19 residence.

20 **Sec. 9.** This act becomes effective upon passage and approval  
21 for the purpose of adopting regulations and performing any other  
22 preparatory administrative tasks necessary to carry out the  
23 provisions of this act, and on January 1, 2016, for all other purposes.

