

## Amendment No. 516

Assembly Amendment to Assembly Bill No. 381

(BDR 24-966)

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

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

KCP



Date: 4/15/2015

A.B. No. 381—Revises provisions relating to elections. (BDR 24-966)



## ASSEMBLY BILL NO. 381—ASSEMBLYWOMAN KIRKPATRICK

MARCH 17, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to elections. (BDR 24-966)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to elections; ~~extending the deadlines for filling vacancies in certain nominations and for making changes to the ballot of a general election; eliminating~~ **providing certain remedies and penalties in preelection challenges to the qualifications of a candidate; changing** the deadline for an elector to file ~~a written challenge on the grounds that a candidate fails to meet any qualification required for the office which the candidate is seeking; requiring a court to order that a candidate whose qualifications to hold office are successfully challenged pay certain fees, costs and penalties; revising the requirements for the Secretary of State, county clerk and city clerk to notify voters of the disqualification of a candidate;~~ **certain preelection challenges to the qualifications of a candidate; making conforming changes to the definition of “actual residence” for purposes of candidacy; providing penalties;** and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

~~Existing law sets forth procedures for filling certain vacancies in a nonpartisan office, nomination for a nonpartisan office and major political party nominations for a partisan office that occur before 5 p.m. on the fourth Friday in June of the year in which the general election is held. (NRS 292.165, 292.166, 292.269) Sections 1, 2 and 5 of this bill extend the deadline for filling these vacancies to July 31 of the year in which the general election is held.~~

**Under existing law, if a candidate is disqualified from taking office because the candidate fails to meet any qualification required for the office, the Secretary of State and local election officials must post a sign at each polling place where the candidate’s name will appear on the ballot informing voters that the candidate is disqualified from taking office. (NRS 293.184, 293C.1865) Additionally, under existing law, there are several different types of preelection court actions that may be brought to challenge a candidate on grounds that the candidate fails to meet any qualification required for the office, including actions for a declaratory judgment or a writ of mandamus. (NRS 281.050, 293.182, 293C.186; DeStefano v. Berkus, 121 Nev. 627, 628-31 (2005); Child v. Lomax, 124 Nev. 600, 604-05 (2008))**

**Section 2.5 of this bill provides that in any preelection action where the court finds that a candidate fails to meet any qualification required for the office: (1) the candidate**

18 is disqualified from taking office; (2) the court may order the candidate to pay the  
19 attorney's fees and costs of the party who brought the action, including the Attorney  
20 General or a district attorney or city attorney; (3) in addition to any other notice  
21 required by law, the court may direct the Secretary of State and local election officials to  
22 notify voters in any other manner the court deems appropriate that the person is  
23 disqualified from taking office; and (4) if the Attorney General or a district attorney or  
24 city attorney brought the action, the court shall order the person to pay to the State of  
25 Nevada a civil penalty of not less than \$5,000.

26 Existing law authorizes an elector to ~~submit~~ file a written challenge to a ~~person's~~  
27 ~~candidacy on the grounds that the person fails to meet any qualification required for the~~  
28 ~~office; the deadline for filing a written challenge is~~ candidate's qualifications not later  
29 than 5 working days after the last day ~~to a person may~~ for the candidate to formally  
30 withdraw his or her candidacy. Depending on the state or local office being sought by the  
31 candidate, the Attorney General or the appropriate district attorney or city attorney  
32 must review the challenge and, if he or she determines that probable cause exists to  
33 support the challenge, must bring a preelection court action challenging the candidate's  
34 qualifications within a statutorily-prescribed period. (NRS 293.182, 293C.186 ~~44~~ 44 ;  
35 Williams v. Clark County Dist. Att'y, 118 Nev. 473, 477-79 (2002) (interpreting NRS  
36 293.182 to permit an elector to file a written challenge not later than 5 working days  
37 after the last day for the candidate to formally withdraw his or her candidacy)) Sections  
38 3 and 6 of this bill ~~eliminate~~ change the deadline for an elector to file such a written  
39 challenge. ~~Sections 2 and 6 also require that if a court determines by a preponderance of the~~  
40 ~~evidence that the challenge to a person's candidacy is valid or that the person otherwise fails~~  
41 ~~to meet any qualification required for the office, the court must order the challenged person to~~  
42 ~~pay: (1) the attorney's fees and court costs of the elector who filed the challenge; and (2) a~~  
43 ~~civil penalty of not less than \$5,000.~~

44 ~~— If a person is disqualified from entering upon the duties of office, existing law requires~~  
45 ~~the Secretary of State and the county clerk or city clerk, as applicable, to post a sign at each~~  
46 ~~polling place where a person's name will appear on the ballot informing voters that the person~~  
47 ~~is disqualified from entering upon the duties of office. (NRS 292.184, 292C.186) Sections 4~~  
48 ~~and 7 of this bill require that the Secretary of State, county clerk or city clerk, as applicable,~~  
49 ~~also notify the voters in any other manner ordered by the court that the person is disqualified~~  
50 ~~from entering upon the duties of office, to the last Monday immediately preceding the~~  
51 ~~first day of early voting for any general election.~~

52 Existing law defines the term "actual residence" to mean the place where a  
53 candidate is legally domiciled and maintains a permanent habitation, and when a  
54 candidate maintains more than one place of permanent habitation, the place designated  
55 by the candidate as his or her principal permanent habitation is deemed to be the  
56 candidate's actual residence. (NRS 281.050) The Nevada Supreme Court has held that  
57 the place designated by the candidate as his or her principal permanent habitation must  
58 be the place where the candidate actually resides and is legally domiciled in order for the  
59 candidate to be eligible to the office. (*Williams v. Clark County Dist. Att'y*, 118 Nev. 473,  
60 484-86 (2002); *Chachas v. Miller*, 120 Nev. 51, 53-56 (2004)) Section 8 of this bill amends  
61 existing law to reflect the Supreme Court's holding.

---

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

1 **Section 1.** ~~NRS 292.165 is hereby amended to read as follows:~~

2 ~~292.165 1. Except as otherwise provided in NRS 292.166, a vacancy~~  
3 ~~occurring in a major or minor political party nomination for a partisan office may~~  
4 ~~be filled by a candidate designated by the party central committee of the county or~~  
5 ~~State, as the case may be, of the major political party or by the executive committee~~  
6 ~~of the minor political party subject to the provisions of subsections 2, 4 and 5.~~

7 ~~2. A vacancy occurring in a nonpartisan office or nomination for a~~  
8 ~~nonpartisan office after the close of filing and before 5 p.m. [of the fourth Friday in~~

~~June] on July 31 of the year in which the general election is held must be filled by the person who receives or received the next highest vote for the nomination in the primary election if a primary election was held for that nonpartisan office. If no primary election was held for that nonpartisan office or if there was not more than one person who was seeking the nonpartisan nomination in the primary election, a person may become a candidate for the nonpartisan office at the general election if the person files a declaration of candidacy or acceptance of candidacy, and pays the fee required by NRS 293.193, on or after 8 a.m. on the third Monday in June and before 5 p.m. on the fourth Friday in June.~~

~~3. If a vacancy occurs in a major political party nomination for a partisan office after the primary election and before 5 p.m. on [the fourth Friday in June] July 31 of the year in which the general election is held and:~~

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

~~(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.~~

~~4. No change may be made on the ballot for the general election after 5 p.m. on [the fourth Friday in June] July 31 of the year in which the general election is held. If, after that time and date:~~

~~(a) A nominee dies or is adjudicated insane or mentally incompetent; or~~

~~(b) A vacancy in the nomination is otherwise created;~~

~~the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.~~

~~5. All designations provided for in this section must be filed on or before 5 p.m. on [the fourth Friday in June] July 31 of the year in which the general election is held. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.]~~

~~(Deleted by amendment.)~~

**Sec. 2.** ~~[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, 3 and 4. 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 actually, as opposed to constructively, 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. If a vacancy occurs in a party nomination for the office of State Senator, Assemblyman or Assemblywoman from a legislative district comprising more than one county after the primary election and before 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held and:~~

~~(a) The vacancy occurs because the nominee dies or is adjudicated insane or mentally incompetent, the vacancy may be 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 for the general election after 5 p.m. on [the fourth Friday in June] **July 31** of the year in which the general election is held. If, after that time and date:~~

~~(a) A nominee dies or is adjudicated insane or mentally incompetent; or~~

~~(b) A vacancy in the nomination is otherwise created;~~

~~the nominee's name must remain on the ballot for the general election and, if elected, a vacancy exists.~~

~~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] **July 31** of the year in which the general election is held, and the statutory filing fee must be paid with the designation.] **(Deleted by amendment.)**~~

**Sec. 2.5. Chapter 293 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. In addition to any other remedy or penalty provided by law, if a court of competent jurisdiction finds in any preelection action that a person who is a candidate for any office fails to meet any qualification required for the office pursuant to the Constitution or laws of this State:**

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

**(b) The court may order the person to pay the reasonable attorney's fees and costs of the party who brought the action, including, without limitation, the Attorney General or a district attorney or city attorney;**

**(c) In addition to any other notice required by law, the court may direct the Secretary of State and county clerk or city clerk, as applicable, to notify voters in any other manner the court deems appropriate that the person is disqualified from entering upon the duties of the office; and**

**(d) If the Attorney General or a district attorney or city attorney brought the action, the court shall order the person to pay to the State of Nevada a civil penalty of not less than \$5,000. Any civil penalty collected pursuant to this paragraph must be deposited by the Attorney General or district attorney or city attorney, as applicable, for credit to the State General Fund in the financial institution designated by the State Treasurer.**

**2. The provisions of this section apply to any preelection action brought to challenge a person who is a candidate for any office on the grounds that the person fails to meet any qualification required for the office pursuant to the Constitution or laws of this State, including, without limitation, any action brought pursuant to NRS 281.050, 293.182 or 293C.186 or any action brought for:**

**(a) Declaratory or injunctive relief pursuant to chapter 30 or 33 of NRS;**

**(b) Writ relief pursuant to chapter 34 of NRS; or**

**(c) Any other legal or equitable relief.**

1        **Sec. 3.** NRS 293.182 is hereby amended to read as follows:

2        293.182 1. After a person files a declaration of candidacy or an acceptance  
3 of candidacy to be a candidate for an office, ~~and not later than 5 [days after] p.m.~~  
4 ~~on the last [day the person may withdraw his or her candidacy]~~ Monday  
5 immediately preceding the first day of the period of early voting by personal  
6 appearance for the general election pursuant to NRS [293.202,] 293.3568, an  
7 elector may file with the filing officer for the office a written challenge of the  
8 person on the grounds that the person fails to meet any qualification required for the  
9 office pursuant to the Constitution or ~~[a statute]~~ laws of this State ~~, [including,~~  
10 ~~without limitation, a requirement concerning age or residency.]~~ Before accepting  
11 the challenge from the elector, the filing officer shall notify the elector that if the  
12 challenge is found by a court to be frivolous, the elector may be required to pay the  
13 reasonable attorney's fees and ~~[court]~~ costs of the ~~[challenged person.]~~ person who  
14 is being challenged.

15        2. A challenge filed pursuant to subsection 1 must:

16        (a) Indicate each qualification the person fails to meet;

17        (b) Have attached all documentation and evidence supporting the challenge;  
18 and

19        (c) Be in the form of an affidavit, signed by the elector under penalty of  
20 perjury.

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

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

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

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

35        5. If, at the hearing, the court determines by a preponderance of the evidence  
36 that the challenge is valid or that the person otherwise fails to meet any  
37 qualification required for the office pursuant to the Constitution or ~~[a statute]~~ laws  
38 of this State, or if the person fails to appear at the hearing:

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

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

44        ~~(c) The court shall order that the challenged person pay the attorney's fees~~  
45 ~~and court costs of the elector who filed the challenge; and~~

46        ~~(d) The court shall order the person to pay to the State of Nevada a civil~~  
47 ~~penalty of not less than \$5,000. Any civil penalty collected pursuant to this~~  
48 ~~paragraph must be deposited by the Attorney General or district attorney, as~~  
49 ~~applicable, for credit to the State General Fund in the bank designated by the~~  
50 ~~State Treasurer.] subject to the provisions of section 2.5 of this act.~~

51        6. If, at the hearing, the court determines that the challenge is frivolous, the  
52 court may order the elector who filed the challenge to pay the reasonable attorney's  
53 fees and ~~[court]~~ costs of the ~~[challenged person.]~~ person who was challenged.

1       **Sec. 4.** ~~NRS 292.184 is hereby amended to read as follows:~~

2       ~~292.184 1. In addition to any other penalty provided by law, if a person~~  
3       ~~willfully files a declaration of candidacy or acceptance of candidacy knowing that~~  
4       ~~the declaration of candidacy or acceptance of candidacy contains a false statement:~~

5       ~~(a) Except as otherwise provided in NRS 292.165 and 292.166, the name of the~~  
6       ~~person must not appear on any ballot for the election for which the person filed the~~  
7       ~~declaration of candidacy or acceptance of candidacy; and~~

8       ~~(b) The person is disqualified from entering upon the duties of the office for~~  
9       ~~which he or she was a candidate.~~

10       ~~2. If the name of a person who is disqualified from entering upon the duties of~~  
11       ~~an office pursuant to subsection 1 appears on a ballot for the election is disqualified~~  
12       ~~because the deadline set forth in NRS 292.165 and 292.166 for making changes to~~  
13       ~~the ballot has passed, the Secretary of State and county clerk must [post]:~~

14       ~~(a) Post a sign at each polling place where the person's name will appear on~~  
15       ~~the ballot informing voters that the person is disqualified from entering upon the~~  
16       ~~duties of office [ ]; and~~

17       ~~(b) Notify voters in any other manner required by a court order that the~~  
18       ~~person is disqualified from entering upon the duties of office.] (Deleted by~~  
19       ~~amendment.)~~

20       **Sec. 5.** ~~NRS 292.368 is hereby amended to read as follows:~~

21       ~~292.368 1. Except as otherwise provided in subsection 4 of NRS 292.165, if~~  
22       ~~a candidate on the ballot at a primary election dies after 5 p.m. of the second~~  
23       ~~Tuesday in April, the deceased candidate's name must remain on the ballot and the~~  
24       ~~votes cast for the deceased candidate must be counted in determining the~~  
25       ~~nomination for the office for which the decedent was a candidate.~~

26       ~~2. If the deceased candidate on the ballot at the primary election receives the~~  
27       ~~number of votes required to receive the nomination to the office for which he or she~~  
28       ~~was a candidate, except as otherwise provided in subsection 2 of NRS 292.165, the~~  
29       ~~deceased candidate shall be deemed nominated and the vacancy in the nomination~~  
30       ~~must be filled as provided in NRS 292.165 or 292.166. If the deceased person was a~~  
31       ~~candidate for a nonpartisan office, the nomination must be filled pursuant to~~  
32       ~~subsection 2 of NRS 292.165.~~

33       ~~3. Whenever a candidate whose name appears upon the ballot at a general~~  
34       ~~election dies after 5 p.m. on [the fourth Friday in June] July 31 of the year in which~~  
35       ~~the general election is held, the votes cast for the deceased candidate must be~~  
36       ~~counted in determining the results of the election for the office for which the~~  
37       ~~decedent was a candidate.~~

38       ~~4. If the deceased candidate on the ballot at the general election receives the~~  
39       ~~majority of the votes cast for the office, the deceased candidate shall be deemed~~  
40       ~~elected and the office to which he or she was elected shall be deemed vacant at the~~  
41       ~~beginning of the term for which he or she was elected. The vacancy thus created~~  
42       ~~must be filled in the same manner as if the candidate had died after taking office for~~  
43       ~~that term.] (Deleted by amendment.)~~

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

45       293C.186 1. After a person files a declaration of candidacy or an acceptance  
46       of candidacy to be a candidate for an office, and not later than 5 [working days  
47       ~~after] p.m. on the last [day the person may withdraw his or her candidacy] Monday~~  
48       ~~immediately preceding the first day of the period of early voting by personal~~  
49       ~~appearance for the general city election pursuant to NRS [293C.495.] 293C.3568,~~  
50       an elector may file with the city clerk a written challenge of the person on the  
51       grounds that the person fails to meet any qualification required for the office  
52       pursuant to the constitution or ~~[a statute] laws~~ of this State ~~[, including, without~~  
53       ~~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.~~ person who is being challenged.

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 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 ~~the statute~~ laws 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.~~

~~(c) The court shall order that the challenged person pay the attorney's fees and court costs of the elector who filed the challenge; and~~

~~(d) The court shall order the person to pay to the State of Nevada a civil penalty of not less than \$5,000. Any civil penalty collected pursuant to this paragraph must be deposited by the city attorney for credit to the State General Fund in the bank designated by the State Treasurer.~~ subject to the provisions of section 2.5 of this act.

6. 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.~~ person who was challenged.

**Sec. 7. [NRS 293C.1865 is hereby amended to read as follows:**

~~293C.1865 1. In addition to any other penalty provided by law, if a person willfully files a declaration of candidacy or acceptance of candidacy knowing that the declaration of candidacy or acceptance of candidacy contains a false statement:~~

~~(a) Except as otherwise provided in NRS 293.165 or 293.166, the name of the person must not appear on any ballot for the election 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 was a candidate.~~

~~2. If the name of a person who is disqualified from entering upon the duties of an office pursuant to subsection 1 appears on a ballot for the election is disqualified because the deadline set forth in NRS 293.165 and 293.166 for making changes to the ballot has passed, the Secretary of State and city clerk must [post];~~



~~(a) Post a sign at each polling place where the person's name will appear on the ballot informing voters that the person is disqualified from entering upon the duties of office [ ] , and~~

~~(b) Notify voters in any other manner required by a court order that the person is disqualified from entering upon the duties of office.] (Deleted by amendment.)~~

Sec. 8. NRS 281.050 is hereby amended to read as follows:

281.050 1. The residence of a person with reference to his or her eligibility to any office is the person's actual residence within the State ~~for~~ county ~~for~~ district, ward, subdistrict or any other unit prescribed by law, 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~~ a declaration of candidacy or acceptance of candidacy for any 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~~ , as the case may be, in which the person is required actually, as opposed to constructively, to reside ~~for~~ in order for the person to be eligible to the office, 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 district court has jurisdiction to determine the question of residence in an action for declaratory judgment.

4. If, in any preelection action for declaratory judgment, the district court finds that a person who has filed a declaration of candidacy or acceptance of candidacy for any elective office fails to meet any qualification concerning residence required for the office pursuant to the Constitution or laws of this State, the person is subject to the provisions of section 2.5 of this act.

5. As used in this section ~~for~~ "actual" :

(a) "Actual residence" means the place of permanent habitation where a person actually resides and is legally domiciled ~~and maintains a permanent habitation~~. If the person maintains more than one ~~such~~ place of permanent habitation, the place the person declares to be the person's principal permanent habitation when filing a declaration of candidacy or ~~affidavit pursuant to NRS 293.177 or 293C.185 shall be deemed to~~ acceptance of candidacy for any elective office must be the ~~person's actual residence~~ place where the person actually resides and is legally domiciled in order for the person to be eligible to the office.

(b) "Declaration of candidacy or acceptance of candidacy" means a declaration of candidacy or acceptance of candidacy filed pursuant to chapter 293 or 293C of NRS.

~~Sec. 8.]~~ Sec. 9. This act becomes effective:

1. Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks necessary to carry out the provisions of this act; and

2. On January 1, 2016, for all other purposes.