

SENATE BILL NO. 122—SENATOR SETTELMAYER

PREFILED JANUARY 31, 2019

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to the qualifications of certain candidates for partisan office. (BDR 24-52)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; prohibiting, with limited exception, a person from being a candidate of certain political parties if the person has not designated his or her political party affiliation with that party on an application to register to vote; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law prohibits, with limited exception, a person from being a candidate
2 of a major political party for partisan office if the person has changed his or her
3 political party affiliation during the period beginning on December 31 preceding
4 the closing filing date and ending on the date of the election. (NRS 293.176)
5 **Section 1** of this bill instead prohibits, with limited exception, a person from being
6 a candidate of a major political party or a minor political party for partisan office if
7 the person: (1) has not designated his or her political party affiliation with the major
8 political party or minor political party on an application to register to vote not later
9 than December 31 preceding the closing filing date; or (2) changed the designation
10 of his or her political party affiliation during the period beginning on January 1
11 preceding the closing filing date and ending on the date of the general election.
12 **Section 2** of this bill makes conforming changes.



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

1 **Section 1.** NRS 293.176 is hereby amended to read as follows:

2 293.176 1. Except as otherwise provided in subsection 2, no
3 person may be a candidate of a major political party *or a minor*
4 *political party, as applicable*, for partisan office in any election if *on*
5 *an application to register to vote in the State of Nevada or in any*
6 *other state* the person has : ~~[changed:]~~

7 (a) ~~[The designation of]~~ *Not designated* his or her political party
8 affiliation ~~[:]~~ *with the major political party or minor political party,*
9 *as applicable, of which the person seeks to be a candidate by*
10 *December 31 preceding the closing filing date for that election;* or

11 (b) ~~[His or her]~~ *Changed the* designation of *his or her* political
12 party *affiliation, including, without limitation, changing his or her*
13 *designation* from nonpartisan to a ~~[designation of a]~~ political party
14 affiliation ~~;~~

15 ~~↪ on an application to register to vote in the State of Nevada or in~~
16 ~~any other state]~~ during the time beginning on ~~[December 31]~~
17 *January 1* preceding the closing filing date for that election and
18 ending on the date of that election . ~~[whether or not the person's~~
19 ~~previous registration was still effective at the time of the change in~~
20 ~~party designation.]~~

21 2. The provisions of subsection 1 do not apply to any person
22 who is a candidate of a political party that is not organized pursuant
23 to NRS 293.171 on the December 31 ~~[next]~~ preceding the closing
24 filing date for the election.

25 **Sec. 2.** NRS 293.177 is hereby amended to read as follows:

26 293.177 1. Except as otherwise provided in NRS 293.165
27 and 293.166, a name may not be printed on a ballot to be used at a
28 primary election unless the person named has filed a declaration of
29 candidacy or an acceptance of candidacy, and has paid the fee
30 required by NRS 293.193 not earlier than:

31 (a) For a candidate for judicial office, the first Monday in
32 January of the year in which the election is to be held and not later
33 than 5 p.m. on the second Friday after the first Monday in January;
34 and

35 (b) For all other candidates, the first Monday in March of the
36 year in which the election is to be held and not later than 5 p.m. on
37 the second Friday after the first Monday in March.

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

41 (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 ~~for political party~~ affiliation on an official application to register to vote in any state since ~~December 31~~ *January 1* 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 a crime punishable as a gross misdemeanor and also subjects me to a civil action disqualifying me from entering upon the duties of



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; that I understand that knowingly and willfully filing a declaration of candidacy or acceptance of candidacy which contains a false statement is a crime punishable as a gross misdemeanor and also subjects me to a civil action disqualifying me from entering upon the duties of 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

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 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 the candidate fails to comply with the following provisions of this subsection or, if applicable, the provisions of subsection 4:

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

(b) Except as otherwise provided in subsection 4, the candidate shall 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.



1 4. If the candidate executes an oath or affirmation under
2 penalty of perjury stating that the candidate is unable to present to
3 the filing officer the proof of residency required by subsection 3
4 because a street address has not been assigned to the candidate's
5 residence or because the rural or remote location of the candidate's
6 residence makes it impracticable to present the proof of residency
7 required by subsection 3, the candidate shall present to the filing
8 officer:

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

12 (b) Alternative proof of the candidate's residential address that
13 the filing officer determines is sufficient to verify where the
14 candidate actually, as opposed to constructively, resides in
15 accordance with NRS 281.050. The Secretary of State may adopt
16 regulations establishing the forms of alternative proof of the
17 candidate's residential address that the filing officer may accept to
18 verify where the candidate actually, as opposed to constructively,
19 resides in accordance with NRS 281.050.

20 5. The filing officer shall retain a copy of the proof of identity
21 and residency provided by the candidate pursuant to subsection 3 or
22 4. Such a copy:

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

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

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

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

44 (a) May conduct an investigation to determine whether the
45 candidate has been convicted of a felony and, if so, whether the



1 candidate has had his or her civil rights restored by a court of
2 competent jurisdiction; and

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

7 8. The receipt of information by the Attorney General or
8 district attorney pursuant to subsection 7 must be treated as a
9 challenge of a candidate pursuant to subsections 4 and 5 of NRS
10 293.182 to which the provisions of NRS 293.2045 apply.

11 9. Any person who knowingly and willfully files a declaration
12 of candidacy or acceptance of candidacy which contains a false
13 statement in violation of this section is guilty of a gross
14 misdemeanor.

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

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

19 2. On January 1, 2020, for all other purposes.



