

SENATE BILL NO. 5—SENATOR SETTELMAYER

PREFILED DECEMBER 19, 2014

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing elections for nonpartisan offices. (BDR 24-90)

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; providing that a candidate for nonpartisan office who receives a majority of the votes cast in a primary election or certain primary city elections must be declared the winner and not be placed on the ballot at a general election; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that if there are more candidates than twice the number to  
2 be elected to a nonpartisan office, other than a city office: (1) the names of the  
3 candidates must appear on the ballot for a primary election; and (2) those  
4 candidates who receive the highest number of votes at that election, not to exceed  
5 twice the number to be elected, must be declared nominees for the office. (NRS  
6 293.260) **Section 1** of this bill provides that if one candidate receives a majority of  
7 the votes cast in the primary election for the office for which he or she is a  
8 candidate, the candidate must be declared elected to the office and his or her name  
9 must not be placed on the ballot for the general election.

10 For primary city elections conducted in certain general law cities, existing law  
11 provides that if one candidate receives “more than a majority” of the votes cast in  
12 such an election for the office for which he or she is a candidate, the candidate must  
13 be declared to be elected to the office and the candidate’s name must not be placed  
14 on the ballot for the general city election. (NRS 293C.175) **Section 2** of this bill  
15 amends the statute to clarify that such a candidate need only receive a majority of  
16 the votes cast, not some greater number, to be declared to be elected. **Section 3** of  
17 this bill makes a similar change to the Charter of Carson City.

18 For most charter cities that hold primary city elections, existing law provides  
19 that if one candidate receives a majority of votes cast in the primary city election  
20 for the office for which he or she is a candidate, the candidate must be declared  
21 elected to the office and the candidate’s name must not be placed on the ballot for  
22 the general city election. (Boulder City Charter § 96, Henderson City Charter §  
23 5.010, Las Vegas City Charter § 5.010, North Las Vegas City Charter § 5.020)



24 **Sections 3, 4 and 6** of this bill amend the Charters of Carson City and the Cities of  
25 Reno and Sparks so that this rule applies to all charter cities that hold primary city  
26 elections.

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

- 1     **Section 1.** NRS 293.260 is hereby amended to read as follows:  
2     293.260 1. Where there is no contest of election for  
3 nomination to a particular office, neither the title of the office nor  
4 the name of the candidate may appear on the ballot.  
5     2. If more than one major political party has candidates for a  
6 particular office, the persons who receive the highest number of  
7 votes at the primary elections must be declared the nominees of  
8 those parties for the office.  
9     3. If only one major political party has candidates for a  
10 particular office and a minor political party has nominated a  
11 candidate for the office or an independent candidate has filed for the  
12 office, the candidate who receives the highest number of votes in  
13 the primary election of the major political party must be declared the  
14 nominee of that party and his or her name must be placed on the  
15 general election ballot with the name of the nominee of the minor  
16 political party for the office and the name of the independent  
17 candidate who has filed for the office.  
18     4. If only one major political party has candidates for a  
19 particular office and no minor political party has nominated a  
20 candidate for the office and no independent candidate has filed for  
21 the office:  
22     (a) If there are more candidates than twice the number to be  
23 elected to the office, the names of the candidates must appear on the  
24 ballot for a primary election. Except as otherwise provided in this  
25 paragraph, the candidates of that party who receive the highest  
26 number of votes in the primary election, not to exceed twice the  
27 number to be elected to that office at the general election, must be  
28 declared the nominees for the office. If only one candidate is to be  
29 elected to the office and a candidate receives a majority of the votes  
30 in the primary election for that office, that candidate must be  
31 declared the nominee for that office and his or her name must be  
32 placed on the ballot for the general election.  
33     (b) If there are no more than twice the number of candidates to  
34 be elected to the office, the candidates must, without a primary  
35 election, be declared the nominees for the office.  
36     5. Where no more than the number of candidates to be elected  
37 have filed for nomination for:



1 (a) Any partisan office, the office of judge of the Court of  
2 Appeals or the office of justice of the Supreme Court, the names of  
3 those candidates must be omitted from all ballots for a primary  
4 election and placed on all ballots for a general election;

5 (b) Any nonpartisan office, other than the office of justice of the  
6 Supreme Court, office of judge of the Court of Appeals or the office  
7 of member of a town advisory board, the names of those candidates  
8 must appear on the ballot for a primary election unless the  
9 candidates were nominated pursuant to subsection 2 of NRS  
10 293.165. If a candidate receives one or more votes at the primary  
11 election, the candidate must be declared elected to the office and his  
12 or her name must not be placed on the ballot for the general  
13 election. If a candidate does not receive one or more votes at the  
14 primary election, his or her name must be placed on the ballot for  
15 the general election; and

16 (c) The office of member of a town advisory board, the  
17 candidate must be declared elected to the office and no election  
18 must be held for that office.

19 6. If there are more candidates than twice the number to be  
20 elected to a nonpartisan office, the names of the candidates must  
21 appear on the ballot for a primary election. ~~Those~~ *Except as*  
22 *otherwise provided in this subsection, those* candidates who receive  
23 the highest number of votes at that election, not to exceed twice the  
24 number to be elected, must be declared nominees for the office. *If*  
25 *one candidate receives a majority of the votes cast in the primary*  
26 *election for that office, the candidate must be declared elected to*  
27 *the office and his or her name must not be placed on the ballot for*  
28 *the general election.*

29 **Sec. 2.** NRS 293C.175 is hereby amended to read as follows:

30 293C.175 1. Except as otherwise provided in NRS 293C.115,  
31 a primary city election must be held in each city of population  
32 category one, and in each city of population category two that has so  
33 provided by ordinance, on the first Tuesday after the first Monday in  
34 April of every year in which a general city election is to be held, at  
35 which time there must be nominated candidates for offices to be  
36 voted for at the next general city election.

37 2. Except as otherwise provided in NRS 293C.115, a candidate  
38 for any office to be voted for at the primary city election must file a  
39 declaration of candidacy with the city clerk not less than 60 days or  
40 more than 70 days before the date of the primary city election. The  
41 city clerk shall charge and collect from the candidate and the  
42 candidate must pay to the city clerk, at the time of filing  
43 the declaration of candidacy, a filing fee in an amount fixed by the  
44 governing body of the city by ordinance or resolution. The filing



1 fees collected by the city clerk must be deposited to the credit of the  
2 general fund of the city.

3 3. All candidates, except as otherwise provided in NRS  
4 266.220, must be voted upon by the electors of the city at large.

5 4. If, in a primary city election held in a city of population  
6 category one or two, one candidate receives ~~more than~~ a majority  
7 of votes cast in that election for the office for which he or she is a  
8 candidate, the candidate must be declared elected to the office and  
9 the candidate's name must not be placed on the ballot for the  
10 general city election. If, in the primary city election, no candidate  
11 receives a majority of votes cast in that election for the office for  
12 which he or she is a candidate, the names of the two candidates  
13 receiving the highest number of votes must be placed on the ballot  
14 for the general city election.

15 **Sec. 3.** Section 5.010 of the Charter of Carson City, being  
16 chapter 213, Statutes of Nevada 1969, as last amended by chapter  
17 100, Statutes of Nevada 1999, at page 271, is hereby amended to  
18 read as follows:

19 Sec. 5.010 Primary election.

20 1. A primary election must be held on the date fixed by  
21 the election laws of this state for statewide elections, at which  
22 time there must be nominated candidates for offices to be  
23 voted for at the next general election.

24 2. A candidate for any office to be voted for at any  
25 primary election must file a declaration of candidacy as  
26 provided by the election laws of this state.

27 3. All candidates for the office of Mayor and Supervisor,  
28 and candidates for the office of Municipal Judge if a third  
29 department of the Municipal Court has been established, must  
30 be voted upon by the registered voters of Carson City at large.

31 4. If only two persons file for a particular office, their  
32 names must not appear on the primary ballot but their names  
33 must be placed on the ballot for the general election.

34 5. If in the primary election one candidate receives  
35 ~~more than~~ a majority of votes cast in that election for the  
36 office for which he or she is a candidate, ~~this or her name~~  
37 ~~alone must be placed on the ballot for the general election.~~  
38 *the candidate must be declared elected to the office and his*  
39 *or her name must not be placed on the ballot for the general*  
40 *election.* If in the primary election no candidate receives a  
41 majority of votes cast in that election for the office for which  
42 he or she is a candidate, the names of the two candidates  
43 receiving the highest numbers of votes must be placed on the  
44 ballot for the general election.



1       **Sec. 4.** Section 5.020 of the Charter of the City of Reno, being  
2 chapter 662, Statutes of Nevada 1971, as last amended by chapter  
3 349, Statutes of Nevada 2013, at page 1829, is hereby amended to  
4 read as follows:

5               Sec. 5.020 Primary elections; declaration of candidacy.

6               1. A candidate for any office to be voted for at an  
7 election must file a declaration of candidacy with the City  
8 Clerk. All filing fees collected by the City Clerk must be  
9 deposited to the credit of the General Fund of the City.

10              2. If for any general election, there are three or more  
11 candidates for any office to be filled at that election, a  
12 primary election for any such office must be held on the date  
13 fixed by the election laws of the State for statewide elections,  
14 at which time there must be nominated candidates for the  
15 office to be voted for at the next general election. If for any  
16 general election there are two or fewer candidates for any  
17 office to be filled at that election, their names must not be  
18 placed on the ballot for the primary election but must be  
19 placed on the ballot for the general election. The general  
20 election must be held on the date fixed by the election laws of  
21 the State for the statewide general election.

22              3. In the primary election:

23              (a) ~~the~~ *Except as otherwise provided in paragraph (d),*  
24 *the* names of the two candidates for Municipal Judge, City  
25 Attorney or a particular City Council seat, as the case may be,  
26 who receive the highest number of votes must be placed on  
27 the ballot for the general election.

28              (b) Candidates for Council Member who represent a  
29 specific ward must be voted upon only by the registered  
30 voters of that ward.

31              (c) Candidates for Mayor and Council Member at large  
32 must be voted upon by all registered voters of the City.

33              (d) *If one candidate receives a majority of votes cast in*  
34 *that election for the office for which he or she is a*  
35 *candidate, the candidate must be declared elected to the*  
36 *office and his or her name must not be placed on the ballot*  
37 *for the general election. A candidate declared elected*  
38 *pursuant to this paragraph does not enter upon the*  
39 *discharge of his or her duties until after the general*  
40 *election.*

41              4. The Mayor and all Council Members must be voted  
42 upon by all registered voters of the City at the general  
43 election.



1     **Sec. 5.** Section 5.100 of the Charter of the City of Reno, being  
2 chapter 662, Statutes of Nevada 1971, as last amended by chapter  
3 349, Statutes of Nevada 2013, at page 1830, is hereby amended to  
4 read as follows:

5             Sec. 5.100 Election returns; canvass; certificates of  
6 election; entry of officers upon duties; tie vote procedure.

7             1. The election returns from any special, primary or  
8 general election must be filed with the City Clerk, who shall  
9 immediately place those returns in a safe or vault, and no  
10 person may handle, inspect or in any manner interfere with  
11 those returns until canvassed by the City Council.

12            2. The City Council and City Manager shall meet within  
13 10 days after any election and canvass the returns and declare  
14 the result. The election returns must then be sealed and kept  
15 by the City Clerk for 6 months, and no person may have  
16 access thereto except on order of a court of competent  
17 jurisdiction or by order of the City Council.

18            3. The City Clerk, under his or her hand and official  
19 seal, shall issue to each person declared to be elected a  
20 certificate of election. ~~The~~ *Except as otherwise provided in*  
21 *paragraph (d) of subsection 3 of section 5.020 of this*  
22 *Charter, the* officers elected shall qualify and enter upon the  
23 discharge of their respective duties at the first regular City  
24 Council meeting following their election.

25            4. If any election results in a tie, the City Council shall  
26 summon the candidates who received the tie vote and  
27 determine the tie as provided in this subsection. The City  
28 Clerk shall provide and open in the presence of the candidates  
29 who received the tie vote an unused 52-card deck of playing  
30 cards, removing any jokers and blank cards. The City Clerk  
31 shall shuffle the cards thoroughly and present the shuffled  
32 deck to the City Manager, or to the person designated by the  
33 City Manager for this purpose. One of the candidates who  
34 received the tie vote shall then draw one card from the deck,  
35 and the City Clerk shall record the suit and number of the  
36 card. The card then must be returned to the deck, and the City  
37 Clerk shall shuffle the cards thoroughly and present the  
38 shuffled deck to the City Manager, or to the person  
39 designated by the City Manager for this purpose, and another  
40 of the candidates who received the tie vote shall draw one  
41 card from the deck. This process must be repeated until each  
42 of the candidates who received the tie vote has drawn one  
43 card from the deck and the result of each draw has been  
44 recorded. The candidate who draws the high card shall be  
45 deemed the winner of the election. For the purposes of this



1 subsection, aces are high and twos are low. If the candidates  
2 draw cards of otherwise equal value, the card of the higher  
3 suit is the high card. Spades are highest, followed in  
4 descending order by hearts, clubs and diamonds. The City  
5 Clerk shall issue to the winner a certificate of election.

6 **Sec. 6.** Section 5.020 of the Charter of the City of Sparks,  
7 being chapter 470, Statutes of Nevada 1975, as last amended by  
8 chapter 41, Statutes of Nevada 2001, at page 398, is hereby  
9 amended to read as follows:

10 Sec. 5.020 Primary elections.

11 1. Candidates for the offices of Mayor, City Attorney  
12 and Municipal Judge must be voted upon by the registered  
13 voters of the City at large. Candidates to represent a ward as a  
14 member of the City Council must be voted upon by the  
15 registered voters of the ward to be represented by them.

16 2. ~~The~~ *Except as otherwise provided in subsection 3,*  
17 *the* names of the two candidates for Mayor, City Attorney  
18 and Municipal Judge and the names of the two candidates to  
19 represent the ward as a member of the City Council from  
20 each ward who receive the highest number of votes at the  
21 primary election must be placed on the ballot for the general  
22 election.

23 3. *If one candidate receives a majority of the votes cast*  
24 *in the primary election for the office for which he or she is a*  
25 *candidate, the candidate must be declared elected to the*  
26 *office and his or her name must not be placed on the ballot*  
27 *for the general election. A candidate declared elected*  
28 *pursuant to this subsection does not enter upon the*  
29 *discharge of his or her duties until after the general*  
30 *election.*

31 **Sec. 7.** Section 5.100 of the Charter of the City of Sparks,  
32 being chapter 470, Statutes of Nevada 1975, as last amended by  
33 chapter 41, Statutes of Nevada 2001, at page 399, is hereby  
34 amended to read as follows:

35 Sec. 5.100 Election returns: Canvass; certificates of  
36 election; entry of officers upon duties; tie vote procedure.

37 1. The election returns from any election must be filed  
38 with the City Clerk, who shall immediately place the returns  
39 in a safe or vault. No person may handle, inspect or in any  
40 manner interfere with the returns until canvassed by the City  
41 Council.

42 2. The City Council shall meet within 10 days after any  
43 election and canvass the returns and declare the result. The  
44 election returns must then be sealed and kept by the City  
45 Clerk for 22 months, and no person may have access to them



1       except on order of a court of competent jurisdiction or by  
2       order of the City Council.

3       3. The City Clerk, under his or her hand and official  
4       seal, shall issue a certificate of election to each person  
5       elected. ~~The~~ *Except as otherwise provided in subsection 3*  
6       *of section 5.020 of this Charter, the* officers elected shall  
7       qualify and enter upon the discharge of their respective duties  
8       at the first regular City Council meeting following their  
9       election.

10      4. If any election results in a tie, the City Council shall  
11      summon the candidates who received the tie vote and  
12      determine the tie by lot. The City Clerk shall then issue to the  
13      winner a certificate of election.

