

Assembly Bill No. 390—Committee on
Legislative Operations and Elections

CHAPTER.....

AN ACT relating to elections; requiring notice of a contest of an election to be provided to the candidate whose election is being contested; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes any candidate at an election or any registered voter of the appropriate political subdivision to contest the election of any candidate, except for the office of United States Senator or Representative in Congress. Except where the contest involves the general election for the office of Governor, Lieutenant Governor, Assemblyman, Assemblywoman, State Senator, justice of the Supreme Court or judge of the Court of Appeals, the candidate or voter who wishes to contest an election must file with the clerk of the district court a written statement of contest. (NRS 293.407) **Section 1** of this bill requires the contestant to provide notice that the statement of contest has been filed to the defendant, who is the candidate whose election is being contested.

Existing law provides that if a contest of a general election is for the office of Governor, Lieutenant Governor, Assemblyman, Assemblywoman, State Senator, justice of the Supreme Court or judge of the Court of Appeals, the candidate or voter who wishes to contest the election must file a statement of contest with the Secretary of State. (NRS 293.425, 293.430) **Sections 2 and 3** of this bill require the contestant and the Secretary of State to provide notice that the statement of contest has been filed to the defendant, who is the candidate whose election is being contested.

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

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

Section 1. NRS 293.407 is hereby amended to read as follows:

293.407 1. A candidate at any election, or any registered voter of the appropriate political subdivision, may contest the election of any candidate, except for the office of United States Senator or Representative in Congress.

2. Except where the contest involves the general election for the office of Governor, Lieutenant Governor, Assemblyman, Assemblywoman, State Senator, justice of the Supreme Court or judge of the Court of Appeals, a candidate or voter who wishes to contest an election, including election to the office of presidential elector, must, within the time prescribed in NRS 293.413, file with the clerk of the district court a written statement of contest, setting forth:



(a) The name of the contestant and that the contestant is a registered voter of the political subdivision in which the election to be contested or part of it was held;

(b) The name of the defendant;

(c) The office to which the defendant was declared elected;

(d) The particular grounds of contest and the section of Nevada Revised Statutes pursuant to which the statement is filed; and

(e) The date of the declaration of the result of the election and the body or board which canvassed the returns thereof.

3. The contestant shall verify the statement of contest in the manner provided for the verification of pleadings in civil actions.

4. All material regarding a contest filed by a contestant with the clerk of the district court must be filed in triplicate.

5. The contestant must notify the defendant that a statement of contest has been filed pursuant to this section.

Sec. 2. NRS 293.425 is hereby amended to read as follows:

293.425 1. If the contest is of the general election for the office of Assemblyman, Assemblywoman or Senator, a statement of contest, prepared as provided in NRS 293.407, and all depositions, ballots and other documents relating to the contest must be filed with the Secretary of State within the time provided for the filing of statements of contests with the clerk of the district court. The parties to such a contest shall be designated contestant and defendant. ***The contestant and the Secretary of State shall notify the defendant that a statement of contest and documents have been filed by the contestant pursuant to this section.***

2. On or before December 15 of the year immediately preceding a regular legislative session:

(a) The contestant in a contest of a general election for the office of Assemblyman, Assemblywoman or Senator may amend the statement of contest filed pursuant to this section by filing an amended statement of contest and any relevant depositions, ballots and other documents relating to the contest with the Secretary of State; and

(b) Each party in a contest of a general election for the office of Assemblyman, Assemblywoman or Senator shall provide the Secretary of State with a list of the witnesses the party intends to present at the hearing of the contest.

3. Each party in a contest of a general election for the office of Assemblyman, Assemblywoman or Senator may:

(a) Before the hearing of the contest:



(1) Take the deposition of any witness in the manner prescribed by rule of court for taking depositions in civil actions in the district courts; and

(2) Investigate issues relating to the contest; and

(b) At the hearing of the contest, present any relevant depositions and other evidence obtained as a result of such investigation at the hearing of the contest, including, without limitation, evidence obtained after the date for filing an amended statement of contest. If a party obtains evidence after such date, the evidence may not be included in the statement of contest or amended statement of contest.

Sec. 3. NRS 293.430 is hereby amended to read as follows:

293.430 1. If the contest is of the general election for the office of Governor, Lieutenant Governor, justice of the Supreme Court or judge of the Court of Appeals, the statement of contest and all depositions, ballots and other documents relating to the contest must be filed with the Secretary of State within the time provided for filing statements of contests with the clerk of the district court. *The contestant and Secretary of State shall notify the defendant that the statement of contest and documents have been filed by the contestant pursuant to this section.*

2. Until the contest is decided, the candidate who received the highest number of votes for the office in the contested election must be seated and commence the duties of the office.

3. The Secretary of State shall deliver the statement of contest and all other papers and documents to the speaker of the assembly on the day of the organization of the Legislature.

4. A joint session of both houses must be convened as soon thereafter as the business of both houses permits, but not later than 10 days after receipt of statement of contest.

5. If, before the contest has been decided, a contestant gives written notice to the Secretary of State that the contestant wishes to withdraw his or her statement of contest, the Secretary of State shall dismiss the contest.

Sec. 4. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 3, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2022, for all other purposes.

