

LEGISLATIVE BILL 221

Approved by the Governor March 10, 1997

Introduced by Schimek, 27; Crosby, 29; Robinson, 16

AN ACT relating to elections; to amend sections 32-560, 32-603, and 32-604, Revised Statutes Supplement, 1996; to define a term; to prohibit certain candidates and officeholders from filing for or holding more than one office; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 32-560, Revised Statutes Supplement, 1996, is amended to read:

32-560. Every elective office shall be vacant, except as provided in section 32-561, upon the happening of any one of the following events at any time before the expiration of the term of such office:

- (1) Resignation of the incumbent;
- (2) Death of the incumbent;
- (3) Removal of the incumbent from office;
- (4) Decision of a competent tribunal declaring the office of the incumbent vacant;
- (5) Incumbent ceasing to be a resident of the state, district, county, township, or precinct in which the duties of his or her office are to be exercised or for which he or she may have been elected;
- (6) Failure to elect at a proper election when there is no incumbent to continue in office until his or her successor is elected and qualified;
- (7) Failure of a candidate elected to an office to qualify for such office;

(8) Forfeiture of office as provided by law;

(9) Conviction of a felony or of any public offense involving the violation of the oath of office of the incumbent; or

(10) Incumbent of ~~an~~ a high elective office assuming another elective office as provided in subsections (2) and ~~(3)~~ through (4) of section 32-604.

Sec. 2. Section 32-603, Revised Statutes Supplement, 1996, is amended to read:

32-603. (1) No candidate for member of the Legislature or an elective office described in Article IV, section 1 ~~or 20, or Article VII, section 3 or 10,~~ of the Constitution of Nebraska shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. No candidate for any other high elective office as defined in subsection (6) of section 32-604 shall be eligible to file as a candidate, to petition on the ballot as a candidate, to accept a nomination by a political party or by party convention, caucus, or committee to fill a vacancy, or to be a declared write-in candidate for more than one high elective office to be filled at the same election. Any such person who has filed for ~~an~~ a high elective office shall withdraw such filing prior to filing for any other elective office to be filled at the same election except for the position of delegate to a county, state, or national political party convention. Any such person who has won a nomination in a primary election and who is nominated to any additional offices by a write-in vote or by a political party convention or committee shall decline one of the nominations pursuant to section 32-623 and shall do so within seven days after receiving any subsequent nomination. If the candidate fails to take such action, any subsequent nomination shall be declared void. Any filing made in violation of this section shall be void, and the Secretary of State, election commissioner, or county clerk shall not place the name of any person on the ballot for any office for which such person filed in violation of this section.

(2) If a filing officer determines that a candidate has filed for more than one office in violation of subsection (1) of this section, the filing officer shall notify the Secretary of State, the Secretary of State shall determine the order of the filings and notify the candidate that the subsequent filing is invalid, and the candidate's name shall not be printed on the ballot for such office. The Secretary of State shall notify the filing officers of the counties involved of the action taken on such subsequent

filing.

(3) When the name of a candidate appears on the ballot for more than one office during an election in violation of subsection (1) of this section, the filing officer when possible shall correct the error by removing the candidate's name from the ballot and reprinting corrected ballots. When it is not possible to print a corrected set of ballots in time for the election, all votes cast for such candidate as a candidate for the subsequent office appearing on the ballot shall not be counted, and no certificate of nomination or election shall be issued to such candidate for such subsequent office.

Sec. 3. Section 32-604, Revised Statutes Supplement, 1996, is amended to read:

32-604. (1) Except as provided in subsection (2) or (4) of this section, no person shall be precluded from being elected or appointed to or holding an elective office for the reason that he or she has been elected or appointed to or holds another elective office.

(2) No person serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska shall simultaneously serve in any other elective office, except that such a person may simultaneously serve in another elective office which is filled at an election held in conjunction with the annual meeting of a public body.

(3) Whenever an incumbent serving as a member of the Legislature or in an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska assumes another elective office, except an elective office filled at an election held in conjunction with the annual meeting of a public body, the office first held by the incumbent shall be deemed vacant.

(4) No person serving in a high elective office shall simultaneously serve in any other high elective office.

(5) Notwithstanding subsections (2) through (4) of this section, any person holding more than one high elective office upon the effective date of this act shall be entitled to serve the remainder of all terms for which he or she was elected or appointed.

(6) For purposes of this section, (a) elective office shall have the meaning found in section 32-109 and ~~shall include~~ includes an office which is filled at an election held in conjunction with the annual meeting of a public body created by an act of the Legislature and (b) high elective office means a member of the Legislature, an elective office described in Article IV, section 1 or 20, or Article VII, section 3 or 10, of the Constitution of Nebraska, or a county, city, or school district elective office.

Sec. 4. Original sections 32-560, 32-603, and 32-604, Revised Statutes Supplement, 1996, are repealed.