

Twenty-five percent of the landowners must sign a petition seeking the dissolution of the Silver Springs Fire District. After this is accomplished, the Board of County Commissioners shall call an election whereby all “holders of title or evidence of title to lands within the district, and no others, shall be qualified and entitled to vote either in person or by proxy.” Nothing can be found in the applicable statutes which would allow an assignment of a proxy vote to be included in the petition. The legitimate place of the use of a proxy is in the election which would follow the circulation and return of the petitions, if in fact 25 percent of the landowners within the district sign. For these reasons, the “petition” above set forth does not result in an effective assignment of proxy votes by the landowner to the Committee for the Dissolution of the Silver springs Fire District.

Respectfully submitted,

HARVEY DICKERSON, *Attorney General*

311 Elections; Declaration of Candidacy—When filing a declaration of candidacy the declarant must use his or her given or Christian name and surname, and in the case of a married female, the surname of her husband. A fictitious or assumed name may not be allowed, nor may a title or nickname accompany the signature on a declaration of candidacy, unless the use thereof would better inform the electors as to the person’s identity.

Carson City, March 15, 1966

Honorable John Koontz, *Secretary of State, Carson City, Nevada*

STATEMENT OF FACTS

This office is in receipt of your letter dated March 9, 1966, in which you apprise me of the following circumstances surrounding some prospective candidates for various elective offices. It appears that some candidates desire to declare their candidacy under a name other than their true, real, correct, and present surname, and desire instead to file their declaration of candidacy under either a fictitious, assumed, or in the case of some married female candidates, under their maiden names.

QUESTIONS

1. Does a married female candidate have to file her declaration of candidacy under her husbands’ surname?
2. Does a candidate for elective office have a legal right to file a declaration of candidacy under any name other than his or her present surname?
3. When filing a declaration of candidacy, does a person have the right to use a nickname or a title such as “Dr.” “Attorney,” or “Teacher?”

ANALYSIS

Question No. 1: Does a married female candidate have to file her declaration of candidacy under her husband’s surname?

It is the considered opinion of this office that a married female filing a declaration of candidacy for an elective office must do so by using the present surname of her husband for the following reasons:

[NRS 293.517](#)(3) and (4) provide:

3. Each female elector who is or has been married shall be registered under her own given or first name, and not under the given or first name or initials of her husband.

4. Any elector who changes his or her name by marriage, or otherwise, shall not be eligible to vote unless he or she reregisters. If any such change of name occurs after the close of registration, the elector may vote at the ensuing election upon satisfactory proof of registration and subsequent change of name.

[NRS 293.177](#) reads:

1. Except as provided in [NRS 293.165](#), no name may be printed on a ballot or a ballot label to be used at a primary election unless the person named has filed a declaration of candidacy, or an acceptance of a candidacy and paid the fee required by [NRS 293.193](#) not later than 5 p.m. on the 3rd Wednesday in July.

2. A declaration of candidacy or an acceptance of a candidacy required to be filed by this section shall be in substantially the following form:

DECLARATION OF CANDIDACY OF
FOR THE OFFICE OF

STATE OF NEVADA,)
 } ss.
COUNTY OF

For the purpose of having my name placed on the official primary ballot as a candidate for the Party nomination for the office of, I, the undersigned, do swear (or affirm) that I reside at No., Street, in the City (or Town) of, County of, State of Nevada; *That I am a registered voter* of the election precinct in which I reside; that I am registered as a member of the Party; that I have not changed the designation of my political party affiliation on an official affidavit of registration in any state since the date of the last primary election; that I believe in and intend to support the principles and policies of such political party in the coming election; that if nominated as a candidate of the Party at the ensuing election I will accept such nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practice in campaigns and elections in this state; and that I will qualify for the office if elected thereto.

.....
(Signature of candidate for office)

Subscribed and sworn to before
me this day of, 19.....

.....
(Notary Public or other officer
authorized to administer an oath)
(Italics supplied)

By the terms of [NRS 293.517](#) a married woman must reregister to be an elector. The statute is silent as to the last name which should be used. However, it must be presumed that the Legislature had some motive and purpose in enacting the statute. The only logical purpose of the legislation would be to have the married person reregister under her new or changed surname (that of her husband). If she then complies with the other statutory and constitutional requirements dealing with residence and mental qualifications, etc., she is a registered voter.

It must be noted that in the “Declaration of Candidacy” ([NRS 293.177](#)) the candidate must “. . . swear (or affirm) . . . that I am a registered voter . . .” and then sign the declaration. To avoid perjury, the married woman would have to sign her “Declaration of Candidacy” by using her own

given or first name and the surname of her husband, just as she must do so when reregistering after her marriage.

This conclusion is supported by both text writers and the courts of other jurisdictions. 38 Am.Jur., Names, Section 10, reads in part:

A married women's name consists, in law, of her own Christian name and her husband's surname, marriage conferring on her the surname of her husband.

65 C.J.S., Names, Section 3(c) reads in part:

At marriage the wife takes the husband's surname which becomes her legal name. Her maiden surname is absolutely lost and she ceased to be known thereby.

Also *see Wilty v. Jefferson, Parish Democratic Executive Com.* (La. 1963), 157 So.2d 718, 724:

We conclude that a married woman's designation or appellation should be that of her Christian name and her husband's surname.

Based upon the above cited authority and reasoning, it is concluded that a married woman must file as a candidate for an elective office by using her own Christian name and the surname of her present husband just as she must when reregistering as an elector after her marriage. This would not prevent a married woman from also using her maiden name for purposes of identification, such as Mary (Smith) Jones.

Question No. 2: Does a candidate for elective office have a legal right to file a declaration of candidacy under any name other than his or her present surname?

[NRS 293.517](#)(1) and (2) provide:

1. Any elector residing within the county may register by appearing before the county clerk or deputy registrar, completing the affidavit of registration, *and giving true and satisfactory answers to all questions relevant to such elector's right to vote.*

2. The affidavit of registration shall be signed and verified by the elector registering. (Italics supplied.)

From the mandatory language in the above quoted subsections, a person must give "true" answers. To register as an elector under any name other than his or her true name would render a person an unqualified elector and hence unqualified to file a "Declaration of Candidacy" ([NRS 293.177](#)). We must now determine what is a "true name."

It was held in *In Re Faith's Application* (N.J., 1944), 39 A.2d 638, that for the purposes of registering to vote ". . . common use of an assumed name will not suffice to make it the true name, required to be stated by a statute, whose purpose is to determine the past, as well as the present, identity of the individual.

The above announced rule is adopted by this office. If a contrary conclusion is reached there would be nothing restraining a person from filing a declaration of candidacy under the assumed name of George Washington or any other which he thought would be attractive to the voters. The attempted registration as an elector under an assumed or fictitious name would not be a "true" answer to the question, "what is your full name?" which appears on the voters' registration form. Since the declaration of candidacy must be signed with the same name, it would also not be a true name, and hence, the declaration of candidacy would be defective.

Question No. 3: When filing a declaration of candidacy, does a person have the right to use a nickname or a title such "Dr.," "Attorney," or "Teacher?"

As has been pointed out above, [NRS 293.517](#) requires a person to register as an elector by using his true name. The use of a nickname or a title is no part of a person's name.

65 C.J.S., Names, Section 1, states the rule:

Nicknames are short names, that is, names which have been nicked or cut off for the sake of brevity. It has been stated that they do not convey any idea of opprobrium, and also that they are names given in contempt, derision, or sportive familiarity, as familiar or opprobrious appellations, and ordinarily have no place in judicial matters.

In 65 C.J.S., Names, Section 5(a), it is pointed out that prefixes such as “Dr.” are not a part of the name. However, the entire purpose of a name is to afford identification and distinguishment of one person from another. If a person is commonly known by a nickname and the electors would better be apprised as to his identity by the use of such nickname, it could be incorporated as a part of the name appearing on the declaration of candidacy. This does not do away with the necessity of using a person’s given or Christian name and the proper surname, however. Hence, the following would be permissible: “John J. (Doc) Smith” if such appellation would better identify the candidate.

CONCLUSION

A person filing a declaration of candidacy for an elective office must use the same name that appears on that person’s voter registration form. The name appearing on the voter registration form must be, in the case of a married female, her own Christian name and the surname of her husband.

No person has the right to file a declaration of candidacy by using a false or fictitious name, but a married woman may use her given name, her former name and her married name, in that order, for example, Helen Johnson Jones.

A person may incorporate into his name a nickname when signing a declaration of candidacy if by so doing he could be more positively identified by the electors.

Respectfully submitted,

HARVEY DICKERSON, Attorney General

312 Counties; Emergency Loan Act—An emergency loan, as outlined in [NRS 354.070-354.110](#), cannot be secured without a tax levy to meet the obligations unless the general fund or other fund of the county contains a surplus that will not be needed for the purpose of the general fund, or other fund, in the ordinary course of county government.

Carson City, March 18, 1966

Mr. Preston E. Tidvall, *Secretary, State Board of Finance, Carson City, Nevada 89701*

Dear Mr. Tidvall: You have stated that the following facts are pertinent to a situation existing in one of Nevada’s counties:

The people have approved a bond issue in the sum of \$1,300,000 for school construction. However, the bond market is at a low ebb, and the board of school trustees wants to withhold sales of the bonds until the market improves. Your question is whether an emergency loan under the provisions of [NRS 354.070-345.110](#) would authorize the borrowing of sufficient money from a private lending agency without a special tax levy.

ANALYSIS

To begin with, the Emergency Loan Act contemplates, if possible, a transfer of funds between the financial categories. [NRS 354.100](#) reads as follows: