

1. The city council or other governing body of each incorporated city or town in the State of Nevada, whether or not organized under general law or special charter, shall have the power and jurisdiction:

(a) To fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and business conducted within its corporate limits. \* \* \*

Chapter 625 of Nevada Revised Statutes deals with the State Board of Registered Professional Engineers, and its certification and licensing of professional engineers and land surveyors. The purpose of the chapter is to insure a uniform and high level of conduct and professional competence of these professions throughout the State of Nevada. The fees collected under this chapter are solely for the purpose of meeting expenses of examinations, certifications, and conducting the office of the board (NRS 625.150), and not for the purpose of raising revenue.

On the other hand, NRS 266.355 and NRS 269.085 contemplate a tax for revenue purposes upon the privilege of doing business within city boundaries. We see nothing in Chapter 625 which either pre-empts or restricts the powers conferred by the foregoing quoted statutes.

conclusion

We conclude that a city may impose and collect a license tax from a land surveyor for the privilege of doing business within its boundaries, despite the fact that the land surveyor may be certificated and licensed by the State Board of Registered Professional Engineers.

Respectfully submitted,

Harvey Dickerson, Attorney General  
By Peter I. Breen, Deputy Attorney General

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OPINION NO. 1969-627 Election Laws; Candidate; Certificate Of Candidacy—(1) One who changes his political party affiliation registration subsequent to the preceding primary election cannot file as a candidate at the succeeding election. (2) Registered voters who designate a candidate need only be of the same political party as the candidate at the time of filing the certificate of candidacy.

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Carson City, November 3, 1969

The Honorable John Koontz, Secretary of State, Carson City, Nevada 89701

Dear Mr. Koontz:

You have asked for an opinion regarding two questions relative to the filing of a certificate of candidacy by an individual who has changed his registration since the last primary election. These questions are based upon the possible candidacy for the Assembly of an individual who changed his registration from Republican to Independent Party of America subsequent to the last primary election.

analysis

NRS 293.176 provides that:

No person may be a candidate for a party nomination in any primary election if he has changed the designation of his political party affiliation on an official affidavit of registration in the State of Nevada or in any other state since the date of the last primary election in the State of Nevada.

This provision clearly prohibits the candidacy for party nomination of the individual in your example, since he has in fact changed the designation of his political affiliation since the last primary election. See Attorney General's Opinion No. 120 of March 16, 1964.

NRS 293.200, subsection 7, provides:

Each independent candidate shall be required to state under oath that he has not been registered as a member of any political party since the date of the last primary election immediately preceding the filing of the certificate.

The individual in your example is therefore also precluded from filing as an Independent, because he has been registered as a member of a political party since the date of the last primary election. See Attorney General's Opinion No. 120 of March 16, 1964.

While it is true that two district courts have held these statutory conditions to be unconstitutional, the issue has not reached the Supreme Court of Nevada. A.B. 87, introduced in the 1969 Legislature, would have repealed the provision prohibiting a candidate for party nomination from changing his party affiliation after the last primary election. A.B. 87 was amended in the Assembly to change the requirement of no change in registration from the last primary to no change in registration for 6 months prior to filing for office. The bill in this form passed the Assembly, but died in committee in the Senate. The legislative intent is clear. The Legislature desires that the statute not be changed and that the requirements as set out remain in effect. The clerk's function is ministerial. He cannot place an individual on the ballot who does not meet the requirements of NRS 293.176 or NRS 293.200, subsection 7. The individual who does not qualify by the aforementioned terms and who desires to be a candidate will have to proceed through the courts of this State to attempt to gain a place on the ballot.

You have also asked whether there is any requirement that the 10 or more registered voters that designate an elector as a candidate not have changed their party affiliation since the last primary election, in view of the fact that they must have the same party affiliation as the person they are designating. NRS 293.180 does not place any time requirement or time limitation of any kind upon the party membership of the registered voters who designate a candidate by a certificate of candidacy. The only qualification is that they be of the same political party as the candidate designated. It appears that this would be at the time of the filing of the certificate of candidacy.

conclusion

It is therefore our opinion that the county clerk, acting in his ministerial capacity, has no authority to place on the ballot the name of any candidate who does not meet the requirements of NRS 293.176 or NRS 293.200. It is also our opinion that the 10 or more registered voters who designate an elector as a candidate under NRS 293.180 need only have the same party affiliation as the person designated, as of the time of filing the certificate of candidacy.

Respectfully submitted,

Harvey Dickerson, Attorney General  
By Michael L. Melner, Deputy Attorney General

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OPINION NO. 1969-628 Insurance Premium Tax—Chapter 541, 1969 Statutes of Nevada, providing for exemption of certain life insurance policies and annuity contracts from the imposition of the premium tax, construed. Held, a company, qualified and issued a "Class 1" license (covering both life insurance and annuity business transactions) under NRS 681.020, nonetheless is obliged to pay the state premium tax on its previously-issued and outstanding Nevada life insurance policies, even though it voluntarily elected to discontinue further writing of Nevada life insurance, upon such licensing. Such required payment of the premium tax on any such previously-issued and outstanding Nevada life insurance is based on the fact that the liabilities and correlative benefits thereof exist and continue, or remain, legally effective independently and irrespective of whether or not the tax-exempt plan qualifies, or ceases to qualify, under the United States Internal Revenue Code.