



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** October 21, 2021

Staff Contact: Nancy Paulson, City Manager

Agenda Title: For Possible Action: Discussion and possible action regarding the selection of an application process through which a single candidate may be nominated for consideration at a future joint meeting of the Carson City Board of Supervisors ("Carson City Board") and the Washoe County Board of County Commissioners ("Washoe County Board") for possible appointment to fill an existing vacancy in the Senate seat for District 16 in the Nevada Legislature. (Nancy Paulson, npaulson@carson.org)

Staff Summary: Nevada State Senator Ben Kieckhefer recently resigned from his Senate seat, which represents District 16 in the Nevada Legislature. Because District 16 is comprised of both Carson City and portions of Washoe County, state law requires the Carson City Board and the Washoe County Board to first meet separately to each determine a single candidate to nominate to fill the vacancy, and then to meet jointly to appoint a person to the position. Pursuant to Nevada Revised Statutes ("NRS") 218A.262, the Carson City Board and the Washoe County Board must each establish a process by which persons interested in the nomination may file an application for consideration.

Agenda Action: Formal Action / Motion **Time Requested:** 30 Minutes

Proposed Motion

Depends on the process selected by the Board of Supervisors.

Board's Strategic Goal

Efficient Government

Previous Action

N/A

Background/Issues & Analysis

Carson City was recently notified by the Office of the Governor and the Legislative Counsel Bureau that State Senator Ben Kieckhefer resigned his seat from the Nevada Legislature, effective October 7, 2021. Because he was elected from a district - District 16 - which is comprised of both Carson City and portions of Washoe County, state law requires the governing bodies of both counties to jointly fill the vacancy by appointing a person who is qualified under the provisions of NRS 218A.200 and is a member of the same political party as the Legislator who resigned.

In accordance with NRS 218A.250 to 218A.264, inclusive, the Carson City Board and the Washoe County Board must first meet separately to each establish a process by which persons may file an application for consideration. However, as the governing body of the county with the largest population in the district, the Washoe County Board must establish a specific date that is the same date for both counties for the close of filing of applications to fill the vacancy after considering any recommendations made by the Carson City Board.

At separate meetings, each Board must select a single candidate for nomination to fill the vacancy. Under NRS 218A.200, a person is not eligible to be appointed to office as a Legislator unless the person: (1) is a qualified elector; (2) has been an actual, as opposed to constructive, citizen resident of this State for 1 year next preceding the person's appointment; (3) at the time of appointment, has attained the age of 21 years; and (4) meets all other qualifications for the office as required by the Constitution and laws of this State. Each person who files an application must have resided in the district for at least 30 days immediately preceding the close of filing of applications and also execute and file with his or her application a declaration of eligibility as required by NRS 218A.264.

The two Boards must then meet jointly. At the joint meeting, the chair of each Board "must cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of that board's county is of the population of the entire district." Populations are determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce.

After the vote is cast at the joint meeting of the two Boards, the Washoe County Board must issue a certificate of appointment naming the appointee, a copy of which must be provided by the Washoe County Clerk to the appointee and the Secretary of State.

This agenda item is for the first step in this multi-step process of filling the Senate seat vacancy for District 16, which is to establish an application process by which to select a single candidate for nomination by the Carson City Board.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 218A.200; NRS 218A.250 to 218A.264, inclusive.

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

Alternatives

No viable alternative.

Attachments:

[Governor's Letter District 16 senate vacancy.pdf](#)

[Resignations and Vacancies.pdf](#)

[Appointment Process for filling Senate District 16 Seat.docx](#)

Board Action Taken:

Motion: _____	1) _____	Aye/Nay
	2) _____	_____

(Vote Recorded By)

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CARSON CITY, NEVADA 89701
OFFICE: (775) 684-5670
FAX NO.: (775) 684-5683



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LAS VEGAS, NEVADA 89101
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Office of the Governor

October 7, 2021

Mayor Lori Bagwell
City Hall
201 North Carson Street, Suite 2
Carson City, NV 89701

Bob Lucey, Chair
Washoe County Commission
1001 East Ninth Street
Reno, NV 89512

RE: Nevada State Legislature Vacancy
Senate District No. 16

Dear Mayor Bagwell and Chair Lucey:

Pursuant to NRS 283.060, I, as Governor of the State of Nevada, hereby declare the Seat for Nevada State Senate District No. 16 in Carson City and Washoe County vacant. I now, pursuant to Article 4, Section 12 of the Constitution of the State of Nevada, and NRS 218A.260, leave it to the Carson City Board of Supervisors and Washoe County Board of County Commissioners to appoint a replacement for Senate District No. 16.

Please issue a certificate of appointment to the appointee and send a copy to the Secretary of State's Office pursuant to NRS 218A.260. Please also notify the Governor's office of your selection.

If you have any questions or require any additional information, please contact my Chief of Staff Yvanna Cancela at (775) 684-5670.

Sincerely,

Governor Steve Sisolak
State of Nevada

Resignations and Vacancies

NRS 218A.250 Procedure for resigning office.

1. A person who receives a certificate of election or appointment to office as a Legislator may resign the office whether or not the person has entered upon the execution of the duties of the office or has taken the requisite oath of office.

2. If a person resigns his or her office as a Legislator, the person shall deliver the resignation to the Governor. [Part 33:108:1866; B § 2631; BH § 1668; C § 1814; RL § 2797; NCL § 4797] + [Part 34:108:1866; B § 2632; BH § 1669; C § 1815; RL § 2798; NCL § 4798] — (NRS A [2011, 3165](#)) — (Substituted in revision for NRS 218.040)

NRS 218A.260 Procedure for filling vacancy in office: Qualifications; appointment process.

1. If, for any reason set forth in [Section 12 of Article 4](#) of the Nevada Constitution or for any other reason, a vacancy occurs in the office of a Legislator during a regular or special session or at a time when no biennial election or regular election at which county officers are to be elected will take place between the occurrence of the vacancy and the next regular or special session, the vacancy must be filled in the manner provided in this section.

2. If the former Legislator was elected or appointed from a district wholly within one county, the board of county commissioners of the county in which the district is located shall fill the vacancy by appointing a person who meets the qualifications for the office as required by [NRS 218A.200](#), who timely files an application to fill the vacancy pursuant to [NRS 218A.262](#) and a declaration of eligibility pursuant to [NRS 218A.264](#), who is a member of the same political party as the former Legislator and who has, in accordance with [NRS 281.050](#), actually, as opposed to constructively, resided in the district for at least 30 days immediately preceding the date established pursuant to subsection 1 of [NRS 218A.262](#) for the close of filing of applications to fill the vacancy.

3. If the former Legislator was elected or appointed from a district comprising more than one county, the boards of county commissioners of each county within or partly within the district shall fill the vacancy by appointing a person who meets the qualifications for the office as required by [NRS 218A.200](#), who timely files an application to fill the vacancy pursuant to [NRS 218A.262](#) and a declaration of eligibility pursuant to [NRS 218A.264](#), who is a member of the same political party as the former Legislator and who has, in accordance with [NRS 281.050](#), actually, as opposed to constructively, resided in the district for at least 30 days immediately preceding the date established pursuant to subsection 2 of [NRS 218A.262](#) for the close of filing of applications to fill the vacancy. To fill the vacancy:

(a) Each board of county commissioners shall first meet separately and determine the single candidate it will nominate to fill the vacancy.

(b) The boards shall then meet jointly. The joint meeting must be chaired by the person who is the chair of the board of county commissioners of the county with the largest population in the district. At the joint meeting:

(1) The chair of each board, on behalf of that board, shall cast a proportionate number of votes according to the percent, rounded to the nearest whole percent, which the population of that board's county is of the population of the entire district. Populations must be determined by the last decennial census or special census conducted by the Bureau of the Census of the United States Department of Commerce.

(2) The person who receives a plurality of these votes is appointed to fill the vacancy. If no person receives a plurality of the votes, the boards of county commissioners of the respective counties shall each select a candidate, and the appointee must be chosen by drawing lots among the candidates so selected.

4. The board of county commissioners or the board of the county with the largest population in the district shall issue a certificate of appointment naming the appointee. The county clerk or the clerk of the county with the largest population in the district shall give the certificate to the appointee and send a copy of the certificate to the Secretary of State.

(Added to NRS by [1965 Special Session, 7](#); A [1977, 514](#); [1981, 340, 1743](#); [1999, 2169](#); [2011, 3165](#); [2019, 884](#))

NRS 218A.262 Procedure for filling vacancy in office: Application process; deadline.

1. If a vacancy in the office of a Legislator must be filled pursuant to [NRS 218A.260](#) and the former Legislator was elected or appointed from a district wholly within one county, the board of county commissioners of the county in which the district is located shall establish:

(a) A process by which persons may file applications with the board to fill the vacancy; and

(b) A specific date for the close of filing of applications to fill the vacancy.

2. If a vacancy in the office of a Legislator must be filled pursuant to [NRS 218A.260](#) and the former Legislator was elected or appointed from a district comprising more than one county:

(a) The board of county commissioners of each county within or partly within the district shall establish a process by which persons may file applications with that board to fill the vacancy.

(b) The board of county commissioners of the county with the largest population in the district shall, after considering any recommendations made by the other boards within a reasonable time after the vacancy, establish a specific date that is the same for all of the boards for the close of filing of applications to fill the vacancy.

(Added to NRS by [2019, 882](#))

NRS 218A.264 Procedure for filling vacancy in office: Declaration of eligibility; form; contents; unlawful for applicant to make certain false statements.

1. If a person files an application with any board of county commissioners to fill a vacancy in the office of a Legislator pursuant to [NRS 218A.262](#), the person must execute and file with his or her application a declaration of eligibility that must be in substantially the following form:

For the purpose of applying to fill the vacancy in the office of a Legislator in the following legislative district, (name of assembly or senatorial district), I, the undersigned, do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at, in the City or Town of, County of, State of Nevada; that, as required by [NRS 218A.260](#), my actual, as opposed to constructive, residence in that legislative district began on a date at least 30 days immediately preceding the date established pursuant to [NRS 218A.262](#) for the close of filing of applications to fill the vacancy; that my telephone number is, and the address at which I receive mail, if different than my residence, is; that I am registered as a member of the Party; that I am a qualified elector pursuant to [Section 1 of Article 2](#) of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored; that I will otherwise qualify for the office if appointed thereto, including, but not limited to, complying with any limitation prescribed by the Constitution of this State concerning the number of years or terms for which a person may hold the office; that I understand that knowingly and willfully filing a declaration of eligibility which contains a false statement is a crime punishable as a gross misdemeanor; and that, as required by [NRS 218A.200](#), I will have been an actual, as opposed to constructive, citizen resident of this State for 1 year immediately preceding the date of my appointment and that, during such period, I will have resided at the following residence or residences:

..... Street Address Street Address
..... City or Town City or Town
..... State State
From..... To..... Dates of Residency	From..... To..... Dates of Residency
..... Street Address Street Address
..... City or Town City or Town
..... State State
From..... To..... Dates of Residency	From..... To..... Dates of Residency

(Attach additional sheet or sheets of residences as necessary)

.....
(Name of applicant)

.....
(Signature of applicant)

Subscribed and sworn to before me
this day of the month of of the year

.....
Notary Public or other person
authorized to administer an oath

2. Each address of the applicant that must be included in the declaration of eligibility pursuant to subsection 1 must be the street address of the residence where the applicant actually, as opposed to constructively, resided or resides in accordance with [NRS 281.050](#), if one has been assigned. The declaration of eligibility must not be accepted for filing if any of the applicant's addresses are listed as a post office box unless a street address has not been assigned to the residence.

3. Any person who knowingly and willfully files a declaration of eligibility that contains a false statement in violation of this section is guilty of a gross misdemeanor.

(Added to NRS by [2019, 882](#))

ATTACHMENT 1

Proposed Application Process Nevada Senate Seat District 16

NRS 218A.262 2(a) – Each county shall establish a process by which persons may file applications with that board to fill the vacancy.

- October 19, 2021 - Washoe County Board of County Commissioners will adopt an application process.
- October 21, 2021 - Carson City Board of Supervisors will adopt an application process.
- Beginning October 22, 2021 at 9am - Applications may be submitted by email to SD16applications@washoecounty.gov or delivered in person to the Washoe County Administrative Complex, County Manager's Office, 2nd Floor, 1001 East 9th Street, Reno, NV 89512.
 - Application Packet
 - Letter of Interest, resume, or a statement of qualifications
 - Application
 - Declaration of eligibility as required by NRS 218A.264
- October 28, 2021 by 12pm - Application deadline.
- November 4, 2021 - Carson City Board of Supervisors will interview applicants and select a single candidate for nomination to fill the vacancy.
- November 9, 2021 - Washoe County Board of County Commissioners will interview applicants and select a single candidate for nomination to fill the vacancy.
- November 10, 2021 - A joint meeting of both Boards will be held to appoint a candidate to fill the Senate seat vacancy for District 16.