
ASSEMBLY BILL NO. 45—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF ESMERALDA COUNTY)

PREFILED DECEMBER 14, 2010

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing district attorneys.
(BDR 20-251)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to district attorneys; revising requirements relating to attendance at meetings and at the county seat of certain district attorneys; requiring district attorneys to perform certain legal duties for the boards of county commissioners; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Sections 2 and 3** of this bill require the district attorney in each county where,
2 at the preceding general election, the total votes cast for the office of
3 Representative in the Congress of the United States did not exceed 2,500 (currently
4 Esmeralda and Eureka Counties) to: (1) attend in person all regular and special
5 meetings of the board of county commissioners; and (2) spend not less than 52
6 days, excluding Saturdays, Sundays and nonjudicial days, each year at the county
7 seat during business hours. A district attorney who does not satisfy these
8 requirements without prior approval from the board of county commissioners is
9 guilty of a misdemeanor.
10 Existing law requires that a district attorney give his or her advice, when
11 required, to members of the board of county commissioners upon matters relating
12 to their duties. **Section 4** of this bill requires each district attorney also to perform
13 legal duties for the board of county commissioners, such as reviewing contracts,
14 drafting ordinances, providing legal advice relating to federal, state and local law,
15 and drawing legal papers on behalf of the board.



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

1 **Section 1.** NRS 244.235 is hereby amended to read as follows:
2 244.235 1. As provided in NRS 252.170, the district attorney
3 shall attend the ~~[sittings]~~ *meetings* of the board of county
4 commissioners ~~[when engaged in]~~ *relating to the* auditing of
5 accounts and claims brought against the county, and shall oppose
6 such accounts and claims as the district attorney ~~[may deem illegal,~~
7 ~~unjust or extortionate.]~~ *deems appropriate.*

8 2. As provided in NRS 252.180, the district attorney shall not
9 be allowed to present any claim, account or demand for allowance
10 against the county, or in any way to advocate the relief asked on the
11 claim or demand made by another.

12 **Sec. 2.** NRS 252.050 is hereby amended to read as follows:

13 252.050 1. In counties where, at the preceding general
14 election, the total votes cast for the office of Representative in the
15 Congress of the United States exceeded 2,500, except as otherwise
16 provided in subsection ~~[5.]~~ *6*, district attorneys shall keep an office
17 at the county seat of their county, which must be kept open at least
18 from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on all days except
19 Saturdays, Sundays and nonjudicial days. Notwithstanding the
20 provisions of this section, the board of county commissioners of any
21 county may, by an order regularly made and entered in the record of
22 its proceedings, extend the days and hours during which the office
23 of the district attorney must be kept open for the transaction of
24 public business. The board of county commissioners may authorize
25 the district attorney to rent, equip and operate, at public expense,
26 one or more branch offices in the county.

27 2. In counties in which the county seat is not the principal
28 center of population, the county commissioners may authorize the
29 district attorney to rent, equip and operate, at public expense, a
30 branch office at the county's principal center of population. Except
31 as otherwise provided in subsection ~~[5.]~~ *6*, the branch office must be
32 kept open for the transaction of public business on the days and
33 during the hours specified in subsection 1, but the requirements
34 thereof do not apply to a district attorney when called away from the
35 branch office by official duties.

36 3. Except as otherwise provided in subsection ~~[5.]~~ *6*, any
37 district attorney violating the provisions of subsection 1 or 2 is
38 guilty of a misdemeanor.

39 **4.** If any district attorney is absent from his or her office ~~[]~~
40 *during the times he or she is required to be present pursuant to*
41 *subsection 1 or 5*, except:

42 (a) When called away from his or her office by official duties;



1 (b) When expressly permitted so to do by the board of county
2 commissioners or a majority of the members thereof in writing; or

3 (c) When the district attorney first makes provision to leave his
4 or her office open for the transaction of public business on the days
5 and during the hours prescribed in subsection 1 *or 5* and in charge of
6 a deputy qualified to act in his or her absence,

7 ↪ there must be withheld from his or her monthly salary that
8 proportion thereof as the number of days of the absence bears to the
9 number of days of the month in which the absence occurs. This
10 amount must be withheld from the salary of the district attorney for
11 the next succeeding month by order of the board of county
12 commissioners, but no order in the premises may be made without
13 first giving the district attorney reasonable notice and an opportunity
14 to appear before the board and defend the charge against him or her.

15 ~~[4.]~~ *5.* Notwithstanding any other provision of subsection 1, 2
16 or ~~[3.]~~ *4, and* except as otherwise provided in subsection ~~[5.]~~ *6,* the
17 district attorney in each county ~~[having a population of 700 or less,]~~
18 *where, at the preceding general election, the total votes cast for the*
19 *office of Representative in the Congress of the United States did*
20 *not exceed 2,500,* regardless of where the district attorney resides or
21 where he or she keeps his or her office, shall:

22 (a) ~~[Attend]~~ *Except as otherwise provided in this subsection*
23 *and NRS 252.170, attend in person* all meetings, regular or special,
24 of the board of county commissioners ~~[;]~~ *; and*

25 (b) Spend the hours from 9 a.m. to *12 m. and 1 p.m. to 5 p.m.* of
26 not less than ~~[1 day]~~ *52 days, excluding Saturdays, Sundays and*
27 *nonjudicial days,* each ~~[week]~~ *year* at the county seat, and shall
28 make himself or herself available to the county officers *and*
29 *commissioners on those days and* during those hours. The district
30 attorney shall select the ~~[day of the week]~~ *days* for his or her
31 attendance at the county seat *that are required pursuant to this*
32 *paragraph* and ~~[shall thereafter spend that day each week at the~~
33 ~~county seat.~~

34 ~~—5.]~~ *notify the county officers and commissioners, in writing, of*
35 *such days at least 15 days before his or her attendance at the*
36 *county seat.*

37 ↪ *A district attorney who violates a provision of this subsection is*
38 *guilty of a misdemeanor unless the district attorney obtains prior*
39 *approval from the board of county commissioners.*

40 *6.* Any office of a district attorney may deviate from the hours
41 of operation required pursuant to ~~[this section]~~ *subsection 1 or 2* if
42 the board of county commissioners approves the plan for the
43 deviation submitted by the office. Such a plan must be fiscally
44 neutral or result in cost savings.



1 **Sec. 3.** NRS 252.050 is hereby amended to read as follows:

2 252.050 1. In counties where, at the preceding general
3 election, the total votes cast for the office of Representative in the
4 Congress of the United States exceeded 2,500, district attorneys
5 shall keep an office at the county seat of their county, which must be
6 kept open at least from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on all
7 days except Saturdays, Sundays and nonjudicial days.
8 Notwithstanding the provisions of this section, the board of county
9 commissioners of any county may, by an order regularly made and
10 entered in the record of its proceedings, extend the days and hours
11 during which the office of the district attorney must be kept open for
12 the transaction of public business. The board of county
13 commissioners may authorize the district attorney to rent, equip and
14 operate, at public expense, one or more branch offices in the county.

15 2. In counties in which the county seat is not the principal
16 center of population, the county commissioners may authorize the
17 district attorney to rent, equip and operate, at public expense, a
18 branch office at the county's principal center of population. The
19 branch office must be kept open for the transaction of public
20 business on the days and during the hours specified in subsection 1,
21 but the requirements thereof do not apply to a district attorney when
22 called away from the branch office by official duties.

23 3. Any district attorney violating the provisions of subsection 1
24 or 2 is guilty of a misdemeanor.

25 **4.** If any district attorney is absent from his or her office ~~§~~
26 *during the times he or she is required to be present pursuant to*
27 *subsection 1 or 5*, except:

28 (a) When called away from his or her office by official duties;

29 (b) When expressly permitted so to do by the board of county
30 commissioners or a majority of the members thereof in writing; or

31 (c) When the district attorney first makes provision to leave his
32 or her office open for the transaction of public business on the days
33 and during the hours prescribed in subsection 1 *or 5* and in charge of
34 a deputy qualified to act in his or her absence,

35 ➔ there must be withheld from his or her monthly salary that
36 proportion thereof as the number of days of the absence bears to the
37 number of days of the month in which the absence occurs. This
38 amount must be withheld from the salary of the district attorney for
39 the next succeeding month by order of the board of county
40 commissioners; but no order in the premises may be made without
41 first giving the district attorney reasonable notice and an opportunity
42 to appear before the board and defend the charge against him or her.

43 ~~[4.]~~ **5.** Notwithstanding any other provision of this section, the
44 district attorney in each county ~~[having a population of 700 or less,]~~
45 *where, at the preceding general election, the total votes cast for the*



1 *office of Representative in the Congress of the United States did*
2 *not exceed 2,500*, regardless of where the district attorney resides or
3 where he or she keeps his or her office, shall:

4 (a) ~~[Attend]~~ *Except as otherwise provided in this subsection*
5 *and NRS 252.170, attend in person* all meetings, regular or special,
6 of the board of county commissioners ~~[]~~; and

7 (b) Spend the hours from 9 a.m. *to 12 m. and 1 p.m.* to 5 p.m. of
8 not less than ~~[1 day]~~ *52 days, excluding Saturdays, Sundays and*
9 *nonjudicial days*, each ~~[week]~~ *year* at the county seat, and shall
10 make himself or herself available to the county officers *and*
11 *commissioners on those days and* during those hours. The district
12 attorney shall select the ~~[day of the week]~~ *days* for his or her
13 attendance at the county seat *that are required pursuant to this*
14 *paragraph* and ~~[shall thereafter spend that day each week at the~~
15 ~~county seat.]~~ *notify the county officers and commissioners, in*
16 *writing, of such days at least 15 days before his or her attendance*
17 *at the county seat.*

18 *↪ A district attorney who violates a provision of this subsection is*
19 *guilty of a misdemeanor unless the district attorney obtains prior*
20 *approval from the board of county commissioners.*

21 **Sec. 4.** NRS 252.170 is hereby amended to read as follows:

22 252.170 1. The district attorney ~~[]~~ *shall*, when not in
23 attendance ~~[on]~~ *at* the sittings of the district court as criminal
24 prosecutor, ~~[shall]~~ attend the ~~[sittings]~~ *meetings* of the board of
25 county commissioners ~~[when engaged in]~~ *relating to the* auditing
26 of accounts and claims brought against the county, and in all cases
27 oppose such accounts or claims as the district attorney ~~[may deem~~
28 ~~illegal or unjust, and shall, at]~~ *deems appropriate.*

29 2. *The district attorney shall perform legal duties for the*
30 *board of county commissioners, including, without limitation:*

31 (a) *Reviewing all contracts under consideration by the board*
32 *of county commissioners;*

33 (b) *Drafting ordinances and amendments thereto;*

34 (c) *Providing advice relating to the interpretation or*
35 *application of county ordinances;*

36 (d) *Providing advice relating to the impact of federal or state*
37 *law on the county;*

38 (e) *Drawing all legal papers on behalf of the board of county*
39 *commissioners; and*

40 (f) *At all times, [give] giving* his or her advice when required to
41 the members of the board of county commissioners upon matters
42 relating to their duties.

43 **Sec. 5.** 1. This section and sections 1, 2 and 4 of this act
44 become effective upon passage and approval.

45 2. Section 2 of this act expires by limitation on June 30, 2011.



1 3. Section 3 of this act becomes effective on July 1, 2011.

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