

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 Existing law requires the district attorney in each county where, at the
2 preceding general election, the total votes cast for the office of Representative in
3 the Congress of the United States exceeded 2,500 (currently all counties other than
4 Esmeralda, Eureka, Lander, Lincoln, Mineral, Pershing and Storey Counties) to
5 keep an office open on all days excluding Saturdays, Sundays and nonjudicial days
6 at the county seat during business hours. A district attorney who does not satisfy
7 these requirements without prior approval from the board of county commissioners
8 is guilty of a misdemeanor. **Section 3** of this bill requires all district attorneys to
9 keep an office open on all days excluding Saturdays, Sundays and nonjudicial days
10 at the county seat during business hours but allows the board of county
11 commissioners of a county whose population is 9,000 or less (currently Esmeralda,
12 Eureka, Lander, Lincoln, Mineral, Pershing and Storey Counties) to issue an order
13 that reduces the days and hours during which the office must be kept open.

14 Existing law requires that a district attorney give his or her advice, when
15 required, to members of the board of county commissioners upon matters relating
16 to their duties. **Section 4** of this bill requires each district attorney also to perform
17 legal duties for the board of county commissioners, such as reviewing contracts,
18 drafting ordinances, providing legal advice relating to federal, state and local law,
19 and drawing legal papers on behalf of the board.



* A B 4 5 R 1 *

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.** (Deleted by amendment.)

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

14 252.050 1. ~~[In counties where, at the preceding general~~
15 ~~election, the total votes cast for the office of Representative in the~~
16 ~~Congress of the United States exceeded 2,500.]~~ *Except as otherwise*
17 *provided in subsection 3, each* district ~~[attorneys]~~ *attorney* shall
18 keep an office at the county seat of their county, which must be kept
19 open at least from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on all days
20 except Saturdays, Sundays and nonjudicial days. Notwithstanding
21 the provisions of this section, the board of county commissioners of
22 any county may, by an order regularly made and entered in the
23 record of its proceedings, extend the days and hours during which
24 the office of the district attorney must be kept open for the
25 transaction of public business. The board of county commissioners
26 may authorize the district attorney to rent, equip and operate, at
27 public expense, one or more branch offices in the county.

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

36 3. ~~[Any]~~ *In a county whose population is less than 9,000, the*
37 *board of county commissioners of the county may, by an order*
38 *regularly made and entered in the record of its proceedings,*
39 *reduce the days and hours during which the office of the district*
40 *attorney must be kept open for the transaction of public business.*



1 **4. Except as otherwise provided in subsection 3, any** district
2 attorney violating the provisions of subsection 1 or 2 is guilty of a
3 misdemeanor.

4 If any district attorney is absent from his or her office, except:

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

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

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

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

20 ~~[4. Notwithstanding any other provision of this section, the~~
21 ~~district attorney in each county having a population of 700 or less,~~
22 ~~regardless of where the district attorney resides or where he or she~~
23 ~~keeps his or her office, shall:~~

24 ~~—(a) Attend all meetings, regular or special, of the board of~~
25 ~~county commissioners.—~~

26 ~~—(b) Spend the hours from 9 a.m. to 5 p.m. of not less than 1 day~~
27 ~~each week at the county seat, and shall make himself or herself~~
28 ~~available to the county officers during those hours. The district~~
29 ~~attorney shall select the day of the week for his or her attendance at~~
30 ~~the county seat and shall thereafter spend that day each week at the~~
31 ~~county seat.]~~

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

33 252.170 **1.** The district attorney ~~[,]~~ **shall**, when not in
34 attendance ~~[on]~~ **at** the sittings of the district court as criminal
35 prosecutor, ~~[shall]~~ attend the ~~[sittings]~~ **meetings** of the board of
36 county commissioners . ~~[, when engaged in]~~ **When attending**
37 **meetings of the board of county commissioners relating to the**
38 **auditing of** accounts and claims brought against the county, ~~[and in~~
39 ~~all cases]~~ **the district attorney shall** oppose such accounts or claims
40 as the district attorney ~~[may deem illegal or unjust, and shall, at]~~
41 **deems appropriate.**

42 **2. Additional duties of the district attorney include, without**
43 **limitation:**

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



- 1 ***(b) Drafting ordinances and amendments thereto;***
2 ***(c) Providing advice relating to the interpretation or***
3 ***application of county ordinances;***
4 ***(d) Providing advice relating to the impact of federal or state***
5 ***law on the county;***
6 ***(e) Drawing all legal papers on behalf of the board of county***
7 ***commissioners; and***
8 ***(f) At all times, ~~give~~ giving his or her advice , including***
9 ***written legal opinions, when required , to the members of the board***
10 ***of county commissioners upon matters relating to their duties.***
11 **Sec. 5.** (Deleted by amendment.)

