

ASSEMBLY BILL NO. 293—ASSEMBLYMAN
OSCARSON (BY REQUEST)

MARCH 13, 2015

JOINT SPONSOR: SENATOR GOICOECHEA

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public administrators.
(BDR 20-168)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 public administrators; setting forth certain qualifications for deputy public administrators; authorizing the board of county commissioners in smaller counties to impose certain duties on the public administrators of the county; revising the circumstances under which a public administrator may secure the property of a deceased person; authorizing a board of county commissioners to take certain action concerning complaints received by the board against the public administrator; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law requires a public administrator to meet certain qualifications for
2 office. (NRS 253.010) Existing law also authorizes a public administrator to
3 appoint as many deputy public administrators as he or she deems necessary and
4 authorizes a deputy public administrator to perform all duties required of the public
5 administrator. (NRS 253.025) **Section 1** of this bill requires a deputy public
6 administrator, like a public administrator, to: (1) be a qualified elector of the
7 county; (2) be 21 years of age or older; (3) not have been convicted of a felony for
8 which his or her civil rights have not been restored by a court of competent
9 jurisdiction; and (4) not have been found liable in a civil action involving fraud,
10 misrepresentation, material omission, misappropriation, theft or conversion.
11 Existing law authorizes a public administrator, without procuring letters of
12 administration and upon filing with the court an affidavit of his or her right to do



13 so, to administer an estate in which the gross value of the decedent's property does
14 not exceed \$20,000. (NRS 253.0403) **Section 1.5** of this bill increases this
15 threshold amount to \$25,000.

16 Under existing law, a public administrator may secure the property of a
17 deceased person before the issuance of letters of administration for the estate of the
18 decedent, before filing an affidavit to administer the estate or before petitioning to
19 have the estate set aside without administration if the public administrator finds that
20 there are no relatives of the decedent who are able to protect the property or that the
21 failure to secure the property could endanger the property. (NRS 253.0405) **Section**
22 **1.7** of this bill instead authorizes a public administrator to act on behalf of the estate
23 of a deceased person to identify and secure all tangible and intangible assets of the
24 estate before the issuance of letters of administration, before filing the affidavit,
25 before petitioning to have the estate set aside without administration and without
26 giving notice to next of kin if the public administrator finds that there are no
27 relatives of the decedent who are able to protect the property or that the failure to
28 secure the property could endanger the property.

29 **Section 1.7** also prohibits a public administrator from distributing, liquidating
30 or otherwise administering the assets of an estate before a court has issued letters of
31 administration for the estate or otherwise authorized the public administrator to act
32 as administrator of the estate. Additionally, **section 1.7** authorizes a public
33 administrator who has identified and secured the assets of an estate to authorize a
34 relative of the decedent, a named executor or trustee of the estate or an attorney or
35 other natural person designated by the next of kin of the decedent to access the real
36 and personal property of the estate.

37 Existing law sets forth the duties of a public administrator in administering the
38 estate of an intestate decedent. (NRS 253.0415) **Section 2** of this bill authorizes the
39 board of county commissioners, in a county whose population is less than 100,000,
40 to require by ordinance, the public administrator, if he or she has been made an
41 administrator of the estate of an intestate decedent who resides in the county, to
42 notify or obtain permission from the board before taking any property belonging to
43 the decedent out of the county.

44 Existing law authorizes a board of county commissioners to investigate any
45 complaint received by the board against the public administrator. (NRS 253.091)
46 **Section 3** of this bill authorizes the board to take any appropriate action that it
47 deems is necessary to resolve such a complaint. **Section 3** also authorizes the board
48 of county commissioners, in a county whose population is less than 100,000, to
49 require, by ordinance, a public administrator to submit an independent audit report
50 to the board on an annual basis, which covers the records and office of the public
51 administrator.

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

1 **Section 1.** NRS 253.025 is hereby amended to read as follows:
2 253.025 1. A public administrator may appoint as many
3 deputies as the public administrator deems necessary to perform
4 fully the duties of his or her office. A deputy so appointed may
5 perform all duties required of the public administrator and has the
6 corresponding powers and responsibilities. Before entering upon the
7 discharge of his or her duties each deputy must take and subscribe to
8 the constitutional oath of office. The appointment of a deputy must



1 not be construed to confer upon that deputy policymaking authority
2 for the office of the county public administrator or the county by
3 which the deputy is employed.

4 2. Each appointment must be in writing and recorded with the
5 oath of office of that deputy in the office of the county recorder.
6 Any revocation or resignation of an appointment must be recorded
7 in the office of the county recorder.

8 3. The public administrator is responsible on his or her official
9 bond for any official malfeasance or nonfeasance of his or her
10 deputies and may require a bond for the faithful performance of the
11 official duties of his or her deputies.

12 4. *Every deputy appointed pursuant to this section must:*

13 (a) *Be a qualified elector of the county;*

14 (b) *Be at least 21 years of age;*

15 (c) *Not have been convicted of a felony for which his or her*
16 *civil rights have not been restored by a court of competent*
17 *jurisdiction; and*

18 (d) *Not have been found liable in a civil action involving a*
19 *finding of fraud, misrepresentation, material omission,*
20 *misappropriation, theft or conversion.*

21 **Sec. 1.5.** NRS 253.0403 is hereby amended to read as follows:

22 253.0403 1. When the gross value of a decedent's property
23 situated in this State does not exceed ~~[\$20,000;]~~ **\$25,000**, a public
24 administrator may, without procuring letters of administration,
25 administer the estate of that person upon filing with the court an
26 affidavit of his or her right to do so.

27 2. The affidavit must provide:

28 (a) The public administrator's name and address, and his or her
29 attestation that he or she is entitled by law to administer the estate;

30 (b) The decedent's place of residence at the time of his or her
31 death;

32 (c) That the gross value of the decedent's property in this State
33 does not exceed ~~[\$20,000;]~~ **\$25,000;**

34 (d) That at least 40 days have elapsed since the death of the
35 decedent;

36 (e) That no application or petition for the appointment of a
37 personal representative is pending or has been granted in this State;

38 (f) A description of the personal property of the decedent;

39 (g) Whether there are any heirs or next of kin known to the
40 affiant, and if known, the name and address of each such person;

41 (h) If heirs or next of kin are known to the affiant, a description
42 of the method of service the affiant used to provide to each of them
43 notice of the affidavit and that at least 10 days have elapsed since
44 the notice was provided;



1 (i) That all debts of the decedent, including funeral and burial
2 expenses, have been paid or provided for; and

3 (j) The name of each person to whom the affiant intends to
4 distribute the decedent's property.

5 3. Before filing the affidavit with the court, the public
6 administrator shall take reasonable steps to ascertain whether any of
7 the decedent's heirs or next of kin exist. If the administrator
8 determines that heirs or next of kin exist, the administrator shall
9 serve each of them with a copy of the affidavit. Service must be
10 made personally or by certified mail.

11 4. If the affiant:

12 (a) Submits an affidavit which does not meet the requirements
13 of subsection 2 or which contains statements which are not entirely
14 true, any money or property the affiant receives or distributes is
15 subject to all debts of the decedent, based on the priority for
16 payment of debts and charges specified in NRS 147.195.

17 (b) Fails to give notice to heirs or next of kin as required by
18 subsection 3, any money or property the affiant holds or distributes
19 to others shall be deemed to be held in trust for those heirs and next
20 of kin who did not receive notice and have an interest in the
21 property.

22 5. A person who receives an affidavit containing the
23 information required by subsection 2 is entitled to rely upon such
24 information, and if the person relies in good faith, he or she is
25 immune from civil liability for actions based on that reliance.

26 6. Upon receiving proof of the death of the decedent, an
27 affidavit containing the information required by this section and the
28 written approval of the public administrator to do so:

29 (a) A transfer agent of any security shall change the registered
30 ownership of the security claimed from the decedent to the person
31 claiming to succeed to ownership of that security.

32 (b) A governmental agency required to issue certificates of title,
33 ownership or registration to personal property shall issue a new
34 certificate of title, ownership or registration to the person claiming
35 to succeed to ownership of the property.

36 **Sec. 1.7.** NRS 253.0405 is hereby amended to read as follows:
37 253.0405 ~~Before~~

38 ***1. Subject to the provisions of subsections 2 and 3, before*** the
39 issuance of the letters of administration for an estate, before filing
40 an affidavit to administer an estate pursuant to NRS 253.0403, ~~for~~
41 before petitioning to have an estate set aside pursuant to NRS
42 253.0425, ***and without giving notice to the next of kin,*** the public
43 administrator may ***act on behalf of the estate of a deceased person***
44 ***to identify and secure*** ~~the property of a deceased person~~ ***all***



1 *tangible and intangible assets of the estate* if the administrator
2 finds that:

3 ~~[1.]~~ (a) There are no relatives of the deceased who are able to
4 protect the property; or

5 ~~[2.]~~ (b) Failure to do so could endanger the property.

6 *2. A public administrator shall not distribute, liquidate or*
7 *otherwise administer any assets of an estate which are identified*
8 *and secured pursuant to subsection 1 unless:*

9 (a) *A court has issued letters of administration for the estate;*
10 *or*

11 (b) *A court order authorizing the public administrator to act as*
12 *administrator of the estate has been issued.*

13 *3. A public administrator may, for the purpose of protecting*
14 *the assets of an estate which are identified and secured pursuant*
15 *to subsection 1, authorize any of the following persons to access*
16 *the real and personal property of the estate:*

17 (a) *A relative of the deceased;*

18 (b) *A named executor or named trustee of the estate; or*

19 (c) *An attorney or any other natural person designated by the*
20 *next of kin of the deceased.*

21 **Sec. 2.** NRS 253.0415 is hereby amended to read as follows:

22 253.0415 1. The public administrator shall:

23 (a) Investigate:

24 (1) The financial status of any decedent for whom he or she
25 has been requested to serve as administrator to determine the assets
26 and liabilities of the estate.

27 (2) Whether there is any qualified person who is willing and
28 able to serve as administrator of the estate of an intestate decedent to
29 determine whether he or she is eligible to serve in that capacity.

30 (3) Whether there are beneficiaries named on any asset of the
31 estate or whether any deed upon death executed pursuant to NRS
32 111.655 to 111.699, inclusive, is on file with the county recorder.

33 (b) Except as otherwise provided in NRS 253.0403 and
34 253.0425, petition the court for letters of administration of the estate
35 of an intestate decedent if, after investigation, the public
36 administrator finds that there is no other qualified person having a
37 prior right who is willing and able to serve.

38 (c) Upon court order, act as administrator of the estate of an
39 intestate decedent, regardless of the amount of assets in the estate of
40 the decedent if no other qualified person is willing and able to serve.

41 2. The public administrator shall not administer any estate:

42 (a) Held in joint tenancy unless all joint tenants are deceased; or

43 (b) For which a deed upon death has been executed pursuant to
44 NRS 111.655 to 111.699, inclusive.



1 3. *In a county whose population is less than 100,000, the*
2 *board of county commissioners may, by ordinance, require the*
3 *public administrator to notify or obtain approval from the board of*
4 *county commissioners before transporting outside the county any*
5 *property of a decedent for whose estate the public administrator*
6 *serves as administrator.*

7 4. As used in this section, "intestate decedent" means a person
8 who has died without leaving a valid will, trust or other estate plan.

9 **Sec. 3.** NRS 253.091 is hereby amended to read as follows:

10 253.091 1. The board of county commissioners shall:

11 (a) Establish regulations for the form of any reports made by the
12 public administrator.

13 (b) Review reports submitted to the board by the public
14 administrator.

15 (c) Investigate any complaint received by the board against the
16 public administrator ~~and~~ *and take any appropriate action it deems*
17 *necessary to resolve the complaint.*

18 2. The board of county commissioners may at any time
19 investigate any estate for which the public administrator is serving
20 as administrator.

21 3. *In a county whose population is less than 100,000, the*
22 *board of county commissioners may, by ordinance, require that,*
23 *on or before March 1 of each year, the public administrator*
24 *submit to the board of county commissioners an independent audit*
25 *report prepared by a certified public accountant of the records and*
26 *office of the public administrator. The ordinance must:*

27 (a) *Provide that each such audit report cover the period*
28 *starting January 1 of the previous calendar year and ending*
29 *December 31 of the previous calendar year.*

30 (b) *Prescribe who is responsible for paying the costs of the*
31 *audit.*

32 **Sec. 4.** This act becomes effective on July 1, 2015.

