

ASSEMBLY BILL NO. 477—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

MARCH 28, 2005

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to authority of deputies appointed by certain public officers. (BDR 20-584)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

~

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

AN ACT relating to public officers; revising provisions relating to the authority of deputies appointed by certain public officers; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 246.030 is hereby amended to read as follows:
2 246.030 1. All county clerks ~~are authorized to~~ *may* appoint
3 deputies, who are authorized to transact all official business
4 ~~appertaining~~ *pertaining* to the office to the same extent as their
5 principals. A deputy must be at least 18 years of age. *The*
6 *appointment of a deputy must not be construed to confer upon that*
7 *deputy policymaking authority for the office of the county clerk or*
8 *the county by which the deputy is employed.*
9 2. County clerks are responsible on their official bonds for all
10 official malfeasance or nonfeasance of their deputies. Bonds for the
11 faithful performance of their official duties may be required of
12 deputies by county clerks.
13 3. All appointments of deputies under the provisions of this
14 section must be in writing ~~and~~ and must, together with the oath of
15 office of the deputies, be recorded in the office of the recorder of the
16 county within which the principal legally holds and exercises his



1 office. Revocations of such appointments must be recorded in the
2 same manner. From the time of the recording of the appointments or
3 revocations, persons shall be deemed to have notice of the
4 appointment or revocation.

5 **Sec. 2.** NRS 247.040 is hereby amended to read as follows:

6 247.040 1. All county recorders ~~[are authorized to]~~ *may*
7 appoint deputies, who are authorized to transact all official business
8 ~~[appertaining]~~ *pertaining* to the office to the same extent as their
9 principals. A deputy must be at least 18 years of age. *The*
10 *appointment of a deputy must not be construed to confer upon that*
11 *deputy policymaking authority for the office of the county*
12 *recorder or the county by which the deputy is employed.*

13 2. County recorders are responsible on their official bonds for
14 all official malfeasance or nonfeasance of their deputies. Bonds for
15 the faithful performance of their official duties may be required of
16 deputies by county recorders.

17 3. All appointments of deputies under the provisions of this
18 section must be in writing ~~[]~~ and must, together with the oath of
19 office of the deputies, be recorded in the office of the recorder of the
20 county within which the county recorder legally holds office.
21 Revocations of such appointments must be recorded in the same
22 manner. From the time of the recording of the appointments or
23 revocations, persons shall be deemed to have notice of the
24 appointment or revocation.

25 **Sec. 3.** NRS 248.040 is hereby amended to read as follows:

26 248.040 1. Except as provided in NRS 248.045, each sheriff
27 may:

28 (a) Appoint, in writing signed by him, one or more deputies,
29 who may perform all the duties devolving on the sheriff of the
30 county ~~[]~~ *and such other duties as the sheriff may from time to*
31 *time direct. The appointment of a deputy sheriff must not be*
32 *construed to confer upon that deputy policymaking authority for*
33 *the office of the sheriff or the county by which the deputy sheriff is*
34 *employed.*

35 (b) Except as otherwise provided in this paragraph, only remove
36 a deputy who has completed a probationary period of 12 months for
37 cause. A deputy who functions as the head of a department or an
38 administrative employee or who has not completed the probationary
39 period may be removed at the sheriff's pleasure.

40 2. No deputy sheriff is qualified to act as such unless he has
41 taken an oath to discharge the duties of the office faithfully and
42 impartially. The oath must be certified on the back of his
43 appointment and filed in the office of the county auditor.

44 3. The sheriff may require of his deputies such bonds as to him
45 seem proper.



1 **Sec. 4.** NRS 249.060 is hereby amended to read as follows:

2 249.060 1. County treasurers may appoint one or more
3 deputies ~~and~~ and may take from them bond with sureties. A deputy
4 must be at least 18 years of age. Every county treasurer and his
5 sureties are liable for every official act of his deputies.

6 2. Any county treasurer may authorize his deputy or deputies
7 to transact any official business pertaining to the office of county
8 treasurer in the same manner as the county treasurer. *The*
9 *appointment of a deputy must not be construed to confer upon that*
10 *deputy policymaking authority for the office of the county*
11 *treasurer or the county by which the deputy is employed.*

12 3. All appointments of deputies under the provisions of this
13 section must be in writing ~~and~~ and must, together with the oath of
14 office of the deputies, be recorded in the office of the recorder of the
15 county within which the county treasurer legally holds and exercises
16 his office. Revocations of such appointments must also be recorded
17 as provided in this section. From the time of the recording of the
18 appointments or revocations therein, persons shall be deemed to
19 have notice of the appointments or revocations.

20 **Sec. 5.** NRS 250.060 is hereby amended to read as follows:

21 250.060 1. All county assessors ~~are authorized to~~ *may*
22 appoint deputies, who are authorized to transact all official business
23 relating to the ~~offices~~ *office* to the same extent as the county
24 assessors. A deputy must be at least 18 years of age. *The*
25 *appointment of a deputy must not be construed to confer upon that*
26 *deputy policymaking authority for the office of the county assessor*
27 *or the county by which the deputy is employed.*

28 2. County assessors are responsible on their official bonds for
29 all official malfeasance or nonfeasance of their deputies. Bonds for
30 the faithful performance of their official duties may be required of
31 deputies by county assessors.

32 3. All appointments of deputies under the provisions of this
33 section must be in writing ~~and~~ and must, together with the oath of
34 office of the deputies, be recorded in the office of the recorder of the
35 county within which the county assessor legally holds and exercises
36 his office. Revocations of such appointments must also be recorded
37 as provided in this section. From the time of the recording of the
38 appointments or revocations therein, persons shall be deemed to
39 have notice of the appointments or revocations.


40 **Sec. 6.** NRS 252.070 is hereby amended to read as follows:

41 252.070 1. All district attorneys ~~are authorized to~~ *may*
42 appoint deputies, who ~~may~~ *are authorized to* transact all official
43 business relating to *those duties of* the ~~offices~~ *office set forth in*
44 *NRS 252.080 and 252.090* to the same extent as their principals ~~and~~
45 *and perform such other duties as the district attorney may from*



1 *time to time direct. The appointment of a deputy district attorney*
2 *must not be construed to confer upon that deputy policymaking*
3 *authority for the office of the district attorney or the county by*
4 *which the deputy district attorney is employed.*

5 2. District attorneys are responsible on their official bonds for
6 all official malfeasance or nonfeasance of the deputies. Bonds for
7 the faithful performance of their official duties may be required of
8 deputies by district attorneys.

9 3. All appointments of deputies under the provisions of this
10 section must be in writing  and must, together with the oath of
11 office of the deputies, be recorded in the office of the recorder of the
12 county within which the district attorney legally holds and exercises
13 his office. Revocations of those appointments must also be recorded
14 as provided in this section. From the time of the recording of the
15 appointments or revocations therein, persons shall be deemed to
16 have notice of the appointments or revocations.

17 4. Deputy district attorneys of counties whose population is
18 less than 100,000 may engage in the private practice of law. In any
19 other county, except as otherwise provided in NRS 7.065 and this
20 subsection, deputy district attorneys shall not engage in the private
21 practice of law. An attorney appointed to prosecute a person for a
22 limited duration with limited jurisdiction may engage in private
23 practice which does not present a conflict with his appointment.

24 5. Any district attorney may, subject to the approval of the
25 board of county commissioners, appoint such clerical,
26 investigational and operational staff as the execution of duties and
27 the operation of his office may require. The compensation of any
28 person so appointed must be fixed by the board of county
29 commissioners.

30 6. In a county whose population is 400,000 or more, deputies
31 are governed by the merit personnel system of the county.

32 **Sec. 7.** NRS 253.025 is hereby amended to read as follows:

33 253.025 1. A public administrator may appoint as many
34 deputies as he deems necessary to perform fully the duties of his
35 office. A deputy so appointed may perform all duties required of the
36 public administrator and has the corresponding powers and
37 responsibilities. Before entering upon the discharge of his duties
38 each deputy must take and subscribe to the constitutional oath of
39 office. *The appointment of a deputy must not be construed to*
40 *confer upon that deputy policymaking authority for the office of*
41 *the county public administrator or the county by which the deputy*
42 *is employed.*

43 2. Each appointment must be in writing and recorded with the
44 oath of office of that deputy in the office of the county recorder.



1 Any revocation or resignation of an appointment must be recorded
2 in the office of the county recorder.

3 3. The public administrator is responsible on his official bond
4 for any official malfeasance or nonfeasance of his deputies and may
5 require a bond for the faithful performance of the official duties of
6 his deputies.

7 **Sec. 8.** NRS 253.175 is hereby amended to read as follows:

8 253.175 1. A public guardian may appoint deputies to
9 perform the duties of his office. A deputy so appointed may transact
10 all official business relating to the office of the public guardian to
11 the same extent as the public guardian, except that the deputy is not
12 authorized to ~~establish or change the policies of the office or to~~
13 employ or terminate the employment of subordinates in the office.
14 Before entering upon the discharge of his duties, each deputy must
15 take and subscribe to the constitutional oath of office. *The*
16 *appointment of a deputy must not be construed to confer upon that*
17 *deputy policymaking authority for the office of the county public*
18 *guardian or the county by which the deputy is employed.*

19 2. Each appointment must be in writing and recorded, with the
20 oath of office of that deputy, in the office of the county recorder.
21 Any revocation or resignation of an appointment must be recorded
22 in the office of the county recorder.

23 3. The public guardian is responsible on his official bond for
24 any official malfeasance or nonfeasance of his deputies and may
25 require a bond for the faithful performance of the official duties of
26 his deputies.

27 4. The compensation of a deputy public guardian must be fixed
28 by the board of county commissioners and paid out of the county
29 general fund.

30 **Sec. 9.** NRS 258.060 is hereby amended to read as follows:

31 258.060 1. All constables ~~are authorized to~~ *may* appoint
32 deputies, who ~~shall have power~~ *are authorized* to transact all
33 official business ~~appertaining~~ *pertaining* to the ~~offices~~ *office* to
34 the same extent as their principals. ~~but no person shall~~ *A person*
35 *must not* be appointed *as* a deputy constable unless ~~such person~~
36 ~~shall have~~ *he has* been a resident of the State of Nevada for at least
37 6 months ~~prior to~~ *before* the date of ~~such~~ *the* appointment. *The*
38 *appointment of a deputy constable must not be construed to confer*
39 *upon that deputy policymaking authority for the office of the*
40 *county constable or the county by which the deputy constable is*
41 *employed.*

42 2. Constables ~~shall be~~ *are* responsible for the compensation
43 of their deputies ~~and shall be~~ *and are* responsible on their official
44 bonds for all official malfeasance or nonfeasance of the same.



1 Bonds for the faithful performance of their official duties may be
2 required of the deputies by the constables.

3 3. All appointments of deputies under the provisions of this
4 section ~~[shall]~~ **must** be in writing ~~[-, and shall,]~~ **and must**, together
5 with the oath of office of the deputies, be filed and recorded in a
6 book provided for that purpose in the office of the recorder of the
7 county within which the constable legally holds and exercises his
8 office. Revocations of such appointments ~~[shall]~~ **must** also be filed
9 and recorded as provided in this section. From the time of the filing
10 of the appointments or revocations therein, persons shall be deemed
11 to have notice of the same.

12 **Sec. 10.** NRS 259.040 is hereby amended to read as follows:

13 259.040 1. All coroners may appoint ~~[a deputy or]~~ deputies,
14 who ~~[may]~~ **are authorized to** transact such official business
15 pertaining to the ~~[offices]~~ **office** as their principals direct. Coroners
16 are responsible for the compensation of the ~~[deputy or deputies,]~~
17 **deputies** and are responsible on their official bonds for all official
18 malfeasance or nonfeasance of the ~~[deputy or]~~ deputies. **The**
19 **appointment of a deputy must not be construed to confer upon that**
20 **deputy policymaking authority for the office of the county coroner**
21 **or the county by which the deputy is employed.**

22 2. All appointments of deputies must be made in writing and
23 must, with the oath of office, be filed in the office of the recorder of
24 the county within which the principal holds and exercises his office.

25 **Sec. 11.** NRS 260.040 is hereby amended to read as follows:

26 260.040 1. The compensation of the public defender must be
27 fixed by the board of county commissioners. The public defender of
28 any two or more counties must be compensated and be permitted
29 private civil practice of the law as determined by the boards of
30 county commissioners of those counties, subject to the provisions of
31 subsection 4 of this section and NRS 7.065.

32 2. The public defender may appoint as many deputies or
33 assistant attorneys, clerks, investigators, stenographers and other
34 employees as he considers necessary to enable him to carry out his
35 responsibilities, with the approval of the board of county
36 commissioners. An assistant attorney must be a qualified attorney
37 licensed to practice in this State and may be placed on a part-time or
38 full-time basis. **The appointment of a deputy, assistant attorney or**
39 **other employee pursuant to this subsection must not be construed**
40 **to confer upon that deputy, assistant attorney or other employee**
41 **policymaking authority for the office of the public defender or the**
42 **county or counties by which the deputy, assistant attorney or other**
43 **employee is employed.**



1 3. The compensation of persons appointed under subsection 2
2 must be fixed by the board of county commissioners of the county
3 or counties so served.

4 4. The public defender and his deputies and assistant attorneys
5 in a county whose population is less than 100,000 may engage in the
6 private practice of law. Except as otherwise provided in this
7 subsection, in any other county, the public defender and his deputies
8 and assistant attorneys shall not engage in the private practice of law
9 except as otherwise provided in NRS 7.065. An attorney appointed
10 to defend a person for a limited duration with limited jurisdiction
11 may engage in private practice which does not present a conflict
12 with his appointment.

13 5. The board of county commissioners shall provide office
14 space, furniture, equipment and supplies for the use of the public
15 defender suitable for the conduct of the business of his office.
16 However, the board of county commissioners may provide for an
17 allowance in place of facilities. Each of those items is a charge
18 against the county in which public defender services are rendered. If
19 the public defender serves more than one county, expenses that are
20 properly allocable to the business of more than one of those counties
21 must be prorated among the counties concerned.

22 6. In a county whose population is 400,000 or more, deputies
23 are governed by the merit personnel system of the county.

24 **Sec. 12.** This act becomes effective upon passage and
25 approval.



