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FIRST REPRINT

A.B. 108

ASSEMBLY BILL No. 108—COMMITTEE ON JUDICIARY

(ON BEHALF OF COUNTY FISCAL OFFICERS ASSOCIATION)

FEBRUARY 12, 2001

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions related to county clerks. (BDR 1-444)

FISCAL NOTE: Effect on Local Government: Yes.
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 county clerks; making various changes concerning the duties of county clerks with respect to grand juries; making various other changes concerning the duties of county clerks with respect to making certain reports; providing a penalty; 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.** Chapter 6 of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 *1. A committee of petitioners consisting of five registered voters may*
4 *commence a proceeding to summon a grand jury pursuant to this section*
5 *by filing with the clerk of the district court an affidavit that contains the*
6 *following information:*

7 *(a) The name and address of each registered voter who is a member of*
8 *the committee.*

9 *(b) The mailing address to which all correspondence concerning the*
10 *committee is to be sent.*

11 *(c) A statement that the committee will be responsible for the*
12 *circulation of the petition and will comply with all applicable*
13 *requirements concerning the filing of a petition to summon a grand jury*
14 *pursuant to this section.*

15 *(d) A statement explaining the necessity for summoning a grand jury*
16 *pursuant to this section.*

17 *2. A petition to summon a grand jury must be filed with the clerk by*
18 *a committee of petitioners not later than 180 days after an affidavit is*
19 *filed pursuant to subsection 1. The petition must contain:*



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- 1 (a) *The signatures of registered voters equal in number to at least 25*
2 *percent of the number of voters voting within the county at the last*
3 *preceding general election. Each signature contained in the petition:*
 - 4 (1) *May only be obtained after the affidavit required pursuant to*
5 *subsection 1 is filed;*
 - 6 (2) *Must be executed in ink; and*
 - 7 (3) *Must be followed by the address of the person signing the*
8 *petition and the date on which the person is signing the petition.*
- 9 (b) *A statement indicating the number of signatures of registered*
10 *voters which were obtained by the committee and which are included in*
11 *the petition.*
- 12 (c) *An affidavit executed by each person who circulated the petition*
13 *which states that:*
 - 14 (1) *The person circulated the petition personally;*
 - 15 (2) *At all times during the circulation of the petition, the affidavit*
16 *filed pursuant to subsection 1 was affixed to the petition;*
 - 17 (3) *Each signature obtained by the person is genuine to the best of*
18 *his knowledge and belief and was obtained in his presence; and*
 - 19 (4) *Each person who signed the petition had an opportunity before*
20 *signing the petition to read the entire text of the petition.*
- 21 3. *A petition filed pursuant to this section may consist of more than*
22 *one document, but all documents that are included as part of the petition*
23 *must be assembled into a single instrument for the purpose of filing.*
24 *Each document that is included as part of the petition must be uniform in*
25 *size and style and must be numbered.*
- 26 4. *A person shall not misrepresent the intent or content of a petition*
27 *circulated or filed pursuant to this section. A person who violates the*
28 *provisions of this subsection is guilty of a misdemeanor.*
- 29 5. *The clerk shall issue a receipt following the filing of a petition*
30 *pursuant to this section. The receipt must indicate the number of:*
 - 31 (a) *Documents included in the petition;*
 - 32 (b) *Pages in each document; and*
 - 33 (c) *Signatures which the committee indicates were obtained and*
34 *which are included in the petition.*
- 35 6. *Within 20 days after a petition is filed pursuant to this section, the*
36 *clerk shall:*
 - 37 (a) *Prepare a certificate indicating whether the petition is sufficient or*
38 *insufficient, and if the petition is insufficient, include in the certificate*
39 *the reasons for the insufficiency of the petition; and*
 - 40 (b) *Transmit a copy of the certificate to the committee by certified*
41 *mail.*
- 42 7. *A petition must not be certified as insufficient for lack of the*
43 *required number of valid signatures if, in the absence of other proof of*
44 *disqualification, any signature on the face thereof does not exactly*
45 *correspond with the signature appearing on the official register of voters*
46 *and the identity of the signer can be ascertained from the face of the*
47 *petition.*
- 48 8. *If a petition is certified as:*



1 (a) Sufficient, the clerk shall promptly present a copy of the certificate
2 to the court, and the court shall summon a grand jury. If there is a grand
3 jury in recess, the court shall recall that grand jury. If there is not a
4 grand jury in recess, a new grand jury must be summoned.

5 (b) Insufficient, the committee may, within 2 days after receipt of the
6 copy of the certificate, file a request with the court for judicial review of
7 the determination by the clerk that the petition is insufficient. In
8 reviewing the determination of the clerk, the court shall examine the
9 petition and the certificate of the clerk and may, in its discretion, allow
10 the introduction of oral or written testimony. The determination of the
11 clerk may be reversed only upon a showing that the determination is in
12 violation of any constitutional or statutory provision, is arbitrary or
13 capricious or involves an abuse of discretion. If the court finds that the
14 determination of the clerk was correct, the committee may commence a
15 new proceeding to summon a grand jury pursuant to this section or may
16 proceed as provided in NRS 6.140. If the court finds that the
17 determination of the clerk must be reversed, the court shall summon a
18 grand jury. If there is a grand jury in recess, the court shall recall that
19 grand jury. If there is not a grand jury in recess, a new grand jury must
20 be summoned.

21 Sec. 2. NRS 6.130 is hereby amended to read as follows:

22 6.130 1. ~~{The district judge shall summon a grand jury whenever a~~
23 ~~verified petition is presented to the clerk of the district court containing the~~
24 ~~signatures of registered voters equal in number to 25 percent of the number~~
25 ~~of voters voting within the county at the last preceding general election~~
26 ~~which specifically sets forth the fact or facts constituting the necessity of~~
27 ~~convening a grand jury.~~

28 ~~—2.~~ In any county, if the statute of limitations has not run against the
29 person offending, the district judge may summon a grand jury after an
30 affidavit or verified petition by any taxpayer *of the county* accompanied by
31 and with corroborating affidavits of at least two additional persons has
32 been filed with the clerk of the district court, setting forth reasonable
33 evidence upon which a belief is based that there has been a
34 misappropriation of public money or property by a public officer, past or
35 present, or any fraud committed against the county or state by any officer,
36 past or present, or any violation of trust by any officer, past or present. The
37 district judge shall act upon the affidavit or petition within 5 days. If he
38 fails or refuses to recall or summon a grand jury, the affiant or petitioner
39 may proceed as provided in NRS 6.140.

40 ~~{3.}~~ 2. If there is a grand jury in recess, the court shall recall that grand
41 jury. ~~{Otherwise,}~~ *If there is not a grand jury in recess,* a new grand jury
42 must be summoned.

43 Sec. 3. NRS 6.140 is hereby amended to read as follows:

44 6.140 In any county, if the district judge for any reason fails or refuses
45 to select a grand jury when required, any interested person resident of the
46 county may apply to the supreme court for an order directing the selection
47 of a grand jury. The application ~~{shall}~~ *must* be supported by affidavits
48 setting forth the true facts as known to the applicant, and the certificate of
49 the county clerk that a grand jury has not been selected within the time



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1 fixed or otherwise as the facts may be. The supreme court shall issue its
2 order, if satisfied that a grand jury should be called, directing the county
3 clerk to select and impanel a grand jury, according to the provisions of
4 NRS 6.110, 6.120 and 6.130 ~~†~~ and section 1 of this act.

5 **Sec. 4.** NRS 6.150 is hereby amended to read as follows:

6 6.150 1. Each person summoned to attend as a grand juror or a trial
7 juror in the district court or justice's court, unless on or before the day he is
8 summoned to attend he is excused by the court at his own request from
9 serving, is entitled to a fee of \$9 for each day he is in attendance in
10 response to the venire or summons, including Sundays and holidays.

11 2. Each grand juror and trial juror in the district court or justice's court
12 actually sworn and serving is entitled to a fee of \$15 a day, or \$30 a day
13 after 5 days, as compensation for each day of service.

14 3. In addition to the fees specified in subsections 1 and 2, a board of
15 county commissioners may provide that, for each day of such attendance or
16 service, each person is entitled to be paid a per diem allowance in an
17 amount equal to the allowance for meals provided for state officers and
18 employees generally while away from the office and within this state
19 pursuant to subsection 1 of NRS 281.160.

20 4. Except as otherwise provided in this section, each person summoned
21 to attend as a grand juror or a trial juror in the district court or justice's
22 court and each grand juror and trial juror in the district court or justice's
23 court is entitled to receive ~~†~~ ~~20~~ 20 cents a mile for each mile necessarily
24 and actually traveled by the shortest and most practical route. A board of
25 county commissioners may provide that, for each mile so traveled, the
26 person is entitled to be paid an amount equal to the allowance for travel by
27 private conveyance provided for state officers and employees generally
28 pursuant to subsection 3 of NRS 281.160. Where the mileage does not
29 exceed 1 mile, an allowance must not be made for that mileage pursuant to
30 this subsection.

31 5. If the home of a person summoned or serving as such a juror is 60
32 miles or more from the place of trial and the selection, inquiry or trial lasts
33 more than 1 day, he is entitled to receive an allowance for lodging at the
34 rate provided by law for state employees, in addition to his daily
35 compensation for attendance or service, for each day on which he does not
36 return to his home.

37 6. In civil cases, any fee, per diem allowance or other compensation
38 due each juror engaged in the trial of the cause must be paid each day in
39 advance to the clerk of the court, or the justice of the peace, by the party
40 who has demanded the jury. If the party paying this money is the prevailing
41 party, the money is recoverable as costs from the losing party. If the jury
42 from any cause is discharged in a civil action without finding a verdict and
43 the party who demands the jury subsequently obtains judgment, the money
44 so paid is recoverable as costs from the losing party.

45 7. The money paid by a county clerk to jurors for their services in a
46 civil action or proceeding, ~~†~~ which he has received from the party
47 demanding the jury, ~~†~~ must be deducted from the total amount due them
48 for attendance as such jurors, and any balance is a charge against the
49 county.



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- 1 **Sec. 5.** NRS 3.290 and 3.295 are hereby repealed.
2 **Sec. 6.** The amendatory provisions of this act do not apply to offenses
3 committed before July 1, 2000.
4 **Sec. 7.** This act becomes effective on July 1, 2001.

TEXT OF REPEALED SECTIONS

3.290 List of cases submitted to be published monthly by clerk. The county clerk of each county shall, on or before the 5th day of each calendar month, publish a list of all cases submitted to the court of which he is clerk and which remain undecided for a period of more than 90 days together with the date of original submission and the dates of any orders of resubmission. Publication shall be made in a newspaper publishing official advertising for the county. It shall not be necessary to publish the full title of each case, but the number of the case and so much of the title as is sufficient to identify the same shall be published.

3.295 Clerk to prepare and submit list of matters standing submitted but undecided to clerk of supreme court. The county clerk of each county shall, on or before the 5th day of each month, prepare and submit to the clerk of the supreme court a list of all matters, by title and number, standing submitted to the district court of such county during the preceding month, and remaining undecided during such month.

