

ASSEMBLY BILL NO. 415—ASSEMBLYMEN GOICOECHEA;
CARPENTER, GOEDHART, GRADY, HARDY, SETTELMAYER
AND STEWART

MARCH 16, 2009

JOINT SPONSOR: SENATOR RHODS

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning the organization
of county offices in certain smaller counties.
(BDR 20-507)

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 counties; authorizing certain smaller counties to
combine or separate certain county offices after approval
by a vote of the residents of the county; and providing
other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law grants to the Nevada Legislature the power to increase, diminish,
2 consolidate or abolish the offices of county clerk, county recorder, auditor, sheriff,
3 district attorney and public administrator. (Nev. Const., Art. 4, § 32) As interpreted
4 by the Nevada Supreme Court, Nev. Const., Art. 4, § 32, does not set forth an
5 exhaustive list of all the county offices that the Legislature may increase, diminish,
6 consolidate or abolish but, instead, clarifies that although the offices of county
7 clerk, county recorder, auditor, sheriff, district attorney and public administrator are
8 constitutional offices, the Legislature may nonetheless increase, diminish,
9 consolidate or abolish those offices. (*Harvey v. Second Judicial Dist. Court*, 117
10 Nev. 754, 764-66 (2001)) The Court has further determined that the Legislature
11 may either exercise or delegate the authority set forth in Nev. Const., Art. 4, § 32.
12 (*Cawley v. Pershing County*, 50 Nev. 237, 247 (1927))

13 This bill, in counties whose population is less than 40,000 (currently counties
14 other than Clark, Douglas, Elko and Washoe Counties and Carson City), authorizes
15 the governing body of the county, after making certain findings and after approval
16 of the residents of the county pursuant to an advisory ballot question (NRS
17 293.482), to combine or separate any county offices, except for constitutional
18 county offices that are not listed in Nev. Const., Art. 4, § 32. Thus, this bill does not



19 authorize the governing body of a county to combine or separate such offices as
20 county commissioner or district judge. (Nev. Const., Art. 4, § 26, Art. 6, § 5)

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

1 **Section 1.** Chapter 244 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *Except as otherwise provided in subsection 2, the board of*
4 *county commissioners of a county whose population is less than*
5 *40,000 may by ordinance direct that:*

6 (a) *The powers and duties of two or more county offices be*
7 *combined into one county office.*

8 (b) *The powers and duties of one county office be allocated*
9 *between two or more county offices.*

10 2. *A board of county commissioners shall not take the action*
11 *described in subsection 1 unless:*

12 (a) *The board determines that the combining or separating of*
13 *the applicable county offices will benefit the public;*

14 (b) *The board determines that the combining or separating of*
15 *the applicable county offices will not create:*

16 (1) *An ethical, legal or practical conflict of interest; or*

17 (2) *A situation in which the powers and duties assigned to a*
18 *county office are incompatible with the proper performance of*
19 *that office in the public interest;*

20 (c) *The board submits to the residents of the county, in the*
21 *form of an advisory ballot question pursuant to NRS 293.482, a*
22 *proposal to combine or separate the applicable county offices; and*

23 (d) *A majority of the voters voting on the advisory ballot*
24 *question approves the proposal.*

25 3. *If the combining or separating of county offices pursuant*
26 *to this section will result in the elimination of one or more county*
27 *offices, the combining or separating of offices must not become*
28 *effective until the earlier of the date on which:*

29 (a) *The normal term of office of the person whose office will*
30 *be eliminated expires; or*

31 (b) *The person whose office will be eliminated resigns.*

32 4. *If the combining or separating of county offices pursuant*
33 *to this section results in the powers and duties of one county office*
34 *being transferred to another county office, the county office to*
35 *which the powers and duties are transferred shall be deemed to be*
36 *the county office from which the powers and duties were*
37 *transferred for the purposes of any applicable provision of law*
38 *authorizing or requiring the performance or exercise of those*
39 *powers and duties, as appropriate.*



* A B 4 1 5 R 1 *

1 **Sec. 2.** NRS 247.010 is hereby amended to read as follows:

2 247.010 1. Except as otherwise provided in subsection 3 ~~H~~
3 *or as altered pursuant to the mechanism set forth in section 1 of*
4 *this act*, county recorders must be elected by the qualified electors
5 of their respective counties.

6 2. County recorders must be chosen by the electors of their
7 respective counties at the general election in 1922, and at the
8 general election every 4 years thereafter, and shall enter upon the
9 duties of their respective offices on the first Monday of January
10 subsequent to their election.

11 3. The Clerk of Carson City is ex officio the Recorder of
12 Carson City.

13 **Sec. 3.** NRS 248.010 is hereby amended to read as follows:

14 248.010 *Unless the arrangement is altered pursuant to the*
15 *mechanism set forth in section 1 of this act:*

16 1. Sheriffs must be elected by the qualified electors of their
17 respective counties.

18 2. Sheriffs must be chosen by the electors of their respective
19 counties at the general election in 1922, and at the general election
20 every 4 years thereafter, and shall enter upon the duties of their
21 respective offices on the first Monday of January subsequent to their
22 election.

23 **Sec. 4.** NRS 249.010 is hereby amended to read as follows:

24 249.010 1. Except as *otherwise* provided in subsection 3 ~~H~~
25 *or as altered pursuant to the mechanism set forth in section 1 of*
26 *this act*, county treasurers must be elected by the qualified electors
27 of their respective counties.

28 2. County treasurers must be chosen by the electors of their
29 respective counties at the general election in 1922, and at the
30 general election every 4 years thereafter, and shall enter upon the
31 duties of their respective offices on the first Monday of January
32 subsequent to their election.

33 3. The county clerks of Churchill, Douglas, Esmeralda, Eureka,
34 Lyon, Mineral, Pershing and Storey Counties are ex officio county
35 treasurers of their respective counties ~~H~~ , *unless such an*
36 *arrangement is altered pursuant to the mechanism set forth in*
37 *section 1 of this act.*

38 **Sec. 5.** NRS 251.010 is hereby amended to read as follows:

39 251.010 1. The county recorder is ex officio county auditor
40 in counties in which a county comptroller has not been appointed ~~H~~
41 , *unless such an arrangement is altered pursuant to the*
42 *mechanism set forth in section 1 of this act.*

43 2. County auditors shall keep an office at the county seat of
44 their county, which must be kept open in accordance with the
45 provisions of NRS 245.040.



1 **Sec. 6.** NRS 253.010 is hereby amended to read as follows:

2 253.010 1. Except as otherwise provided in subsection 4 ~~H~~
3 *or as altered pursuant to the mechanism set forth in section 1 of*
4 *this act*, public administrators must be elected by the qualified
5 electors of their respective counties.

6 2. Public administrators must be chosen by the electors of their
7 respective counties at the general election in 1922 and at the general
8 election every 4 years thereafter, and shall enter upon the duties of
9 their office on the first Monday of January after their election.

10 3. The public administrator of a county must:

11 (a) Be a qualified elector of the county;

12 (b) Be at least 21 years of age on the date he will take office;

13 (c) Not have been convicted of a felony for which his civil rights
14 have not been restored by a court of competent jurisdiction; and

15 (d) Not have been found liable in a civil action involving a
16 finding of fraud, misrepresentation, material omission,
17 misappropriation, theft or conversion.

18 4. The district attorneys of Lander, Lincoln and White Pine
19 Counties are ex officio public administrators of Lander County,
20 Lincoln County and White Pine County, respectively ~~H~~, *unless*
21 *such an arrangement is altered pursuant to the mechanism set*
22 *forth in section 1 of this act.*

23 5. The Clerk of Carson City shall serve as Public Administrator
24 of Carson City.

25 **Sec. 7.** NRS 253.150 is hereby amended to read as follows:

26 253.150 1. The board of county commissioners of each
27 county shall establish the office of public guardian.

28 2. The board of county commissioners shall:

29 (a) Appoint a public guardian, who serves at the pleasure of the
30 board, for a term of 4 years from the day of appointment;

31 (b) Designate an elected or appointed county officer as ex
32 officio public guardian;

33 (c) *Pursuant to the mechanism set forth in section 1 of this act,*
34 *designate another county officer to execute the powers and duties*
35 *of the public guardian;*

36 (d) Except in a county whose population is 100,000 or more,
37 contract with a private professional guardian to act as public
38 guardian; or

39 ~~H~~ (e) Contract with the board of county commissioners of a
40 neighboring county in the same judicial district to designate as
41 public guardian the public guardian of the neighboring county.

42 3. The compensation of a public guardian appointed or
43 designated pursuant to subsection 2 must be fixed by the board of
44 county commissioners and paid out of the county general fund.



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4. As used in this section, "private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the person by blood or marriage. The term does not include:

(a) A governmental agency.

(b) A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.

(c) A trust company, as defined in NRS 669.070.

(d) A court-appointed attorney licensed to practice law in this State.

Sec. 8. NRS 253.160 is hereby amended to read as follows:

253.160 1. Upon taking office, a public guardian shall file with the county clerk a general bond in an amount fixed by the board of county commissioners payable to the State of Nevada with sureties approved by the board of county commissioners. The premium for the bond shall be paid from the general funds of the county and be conditioned upon the public guardian's faithful performance of his duties.

2. The general bond and oath of office of a public guardian are in lieu of the bonds and oaths required of private guardians.

3. The oath and bond of an elected or appointed public officer designated ~~[ex officio]~~ public guardian *or designated to execute the powers and duties of the public guardian* pursuant to *paragraph (b) or (c) of* subsection 2 of NRS 253.150 are in lieu of the bonds and oaths required of private guardians. The court may require ~~the ex officio public guardian~~ *such a designee* to execute a separate bond for any guardianship in the manner prescribed in NRS 159.065.

Sec. 9. NRS 259.020 is hereby amended to read as follows:

259.020 Except in any county where a coroner is appointed pursuant to NRS 244.163, all sheriffs in this state are ex officio coroners ~~[H]~~, *unless such an arrangement is altered pursuant to the mechanism set forth in section 1 of this act.*

Sec. 10. This act becomes effective on July 1, 2009.

