

## Amendment No. 498

Assembly Amendment to Assembly Bill No. 45

(BDR 20-251)

**Proposed by:** Assembly Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AAK/WLK



Date: 4/22/2011

A.B. No. 45—Revises provisions governing district attorneys. (BDR 20-251)



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:**

~~[Sections 2 and 3 of this bill require]~~ Existing law requires the district attorney in each county where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States ~~[did not exceed]~~ **exceeded** 2,500 (currently **all counties other than** Esmeralda, ~~and~~ **Eureka, Lander, Lincoln, Mineral, Pershing and Storey** Counties) to ~~[(1) attend in person all regular and special meetings of the board of county commissioners; and (2) spend not less than 52 days;]~~ **keep an office open on all days** excluding Saturdays, Sundays and nonjudicial days ~~[each year]~~ at the county seat during business hours. A district attorney who does not satisfy these requirements without prior approval from the board of county commissioners is guilty of a misdemeanor. **Section 3 of this bill requires all district attorneys to keep an office open on all days excluding Saturdays, Sundays and nonjudicial days at the county seat during business hours but allows the board of county commissioners of a county whose population is 9,000 or less (currently Esmeralda, Eureka, Lander, Lincoln, Mineral, Pershing and Storey Counties) to issue an order that reduces the days and hours during which the office must be kept open.**

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

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

**Section 1.** NRS 244.235 is hereby amended to read as follows:

244.235 1. As provided in NRS 252.170, the district attorney shall attend the ~~[sittings]~~ *meetings* of the board of county commissioners ~~[when engaged in]~~ *relating to the* auditing of accounts and claims brought against the county, and shall oppose such accounts and claims as the district attorney ~~[may deem illegal, unjust or extortionate.]~~ *deems appropriate.*

2. As provided in NRS 252.180, the district attorney shall not be allowed to present any claim, account or demand for allowance against the county, or in any way to advocate the relief asked on the claim or demand made by another.

**Sec. 2.** ~~[NRS 252.050 is hereby amended to read as follows:~~

~~252.050 1. In counties where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States exceeded 2,500, except as otherwise provided in subsection [5.] 6, district attorneys shall keep an office at the county seat of their county, which must be kept open at least from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. on all days except Saturdays, Sundays and nonjudicial days. Notwithstanding the provisions of this section, the board of county commissioners of any county may, by an order regularly made and entered in the record of its proceedings, extend the days and hours during which the office of the district attorney must be kept open for the transaction of public business. The board of county commissioners may authorize the district attorney to rent, equip and operate, at public expense, one or more branch offices in the county.~~

~~2. In counties in which the county seat is not the principal center of population, the county commissioners may authorize the district attorney to rent, equip and operate, at public expense, a branch office at the county's principal center of population. Except as otherwise provided in subsection [5.] 6, the branch office must be kept open for the transaction of public business on the days and during the hours specified in subsection 1, but the requirements thereof do not apply to a district attorney when called away from the branch office by official duties.~~

~~3. Except as otherwise provided in subsection [5.] 6, any district attorney violating the provisions of subsection 1 or 2 is guilty of a misdemeanor.~~

~~4. If any district attorney is absent from his or her office [.] during the times he or she is required to be present pursuant to subsection 1 or 5, except:~~

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

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

~~(c) When the district attorney first makes provision to leave his or her office open for the transaction of public business on the days and during the hours prescribed in subsection 1 or 5 and in charge of a deputy qualified to act in his or her absence;~~

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

~~[4.] 5. Notwithstanding any other provision of subsection 1, 2 or [3.] 4, and except as otherwise provided in subsection [5.] 6, the district attorney in each~~

1 county [having a population of 700 or less.] ~~where, at the preceding general~~  
2 ~~election, the total votes cast for the office of Representative in the Congress of the~~  
3 ~~United States did not exceed 2,500,~~ regardless of where the district attorney resides  
4 or where he or she keeps his or her office, shall:

5 ~~—(a) [Attend] Except as otherwise provided in this subsection and NRS~~  
6 ~~252.170, attend in person~~ all meetings, regular or special, of the board of county  
7 commissioners [.] ~~and~~

8 ~~—(b) Spend the hours from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. of not less than~~  
9 ~~[1 day] 52 days, excluding Saturdays, Sundays and nonjudicial days, each [week]~~  
10 ~~year at the county seat, and shall make himself or herself available to the county~~  
11 ~~officers and commissioners on those days and during those hours. The district~~  
12 ~~attorney shall select the [day of the week] days for his or her attendance at the~~  
13 ~~county seat that are required pursuant to this paragraph and [shall thereafter~~  
14 ~~spend that day each week at the county seat.~~

15 ~~—5.] notify the county officers and commissioners, in writing, of such days at~~  
16 ~~least 15 days before his or her attendance at the county seat.~~

17 ~~—A district attorney who violates a provision of this subsection is guilty of a~~  
18 ~~misdemeanor unless the district attorney obtains prior approval from the board of~~  
19 ~~county commissioners.~~

20 ~~—6. Any office of a district attorney may deviate from the hours of operation~~  
21 ~~required pursuant to [this section] subsection 1 or 2 if the board of county~~  
22 ~~commissioners approves the plan for the deviation submitted by the office. Such a~~  
23 ~~plan must be fiscally neutral or result in cost savings.] (Deleted by amendment.)~~

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

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

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

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

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

51 ~~[4.]~~ If any district attorney is absent from his or her office, ~~[during the times~~  
52 ~~he or she is required to be present pursuant to subsection 1 or 5.]~~ except:

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

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

(c) When the district attorney first makes provision to leave his or her office open for the transaction of public business on the days and during the hours prescribed in subsection 1 ~~for 5~~ and in charge of a deputy qualified to act in his or her absence,

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

~~[4.] [5. Notwithstanding any other provision of this section, the district attorney in each county] [having a population of 700 or less,] [where, at the preceding general election, the total votes cast for the office of Representative in the Congress of the United States did not exceed 2,500, regardless of where the district attorney resides or where he or she keeps his or her office, shall:~~

~~(a) [Attend] [Except as otherwise provided in this subsection and NRS 252.170, attend in person all meetings, regular or special, of the board of county commissioners.] [;] [; and~~

~~(b) Spend the hours from 9 a.m. to 12 m. and 1 p.m. to 5 p.m. of not less than] [1 day] [52 days, excluding Saturdays, Sundays and nonjudicial days, each] [week] [year at the county seat, and shall make himself or herself available to the county officers and commissioners on those days and during those hours. The district attorney shall select the] [day of the week] [days for his or her attendance at the county seat that are required pursuant to this paragraph and] [shall thereafter spend that day each week at the county seat.] [notify the county officers and commissioners, in writing, of such days at least 15 days before his or her attendance at the county seat.~~

~~A district attorney who violates a provision of this subsection is guilty of a misdemeanor unless the district attorney obtains prior approval from the board of county commissioners.]~~

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

252.170 1. The district attorney ~~;~~ shall, when not in attendance ~~on~~ at the sittings of the district court as criminal prosecutor, ~~shall~~ attend the ~~sittings~~ meetings of the board of county commissioners. ~~;~~ ~~when engaged in~~ When attending meetings of the board of county commissioners relating to the auditing of accounts and claims brought against the county, ~~and in all cases~~ the district attorney shall oppose such accounts or claims as the district attorney ~~may deem illegal or unjust, and shall, at~~ deems appropriate.

2. ~~[The district attorney shall perform legal duties for the board of county commissioners, including.]~~ Additional duties of the district attorney include, without limitation:

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

(b) Drafting ordinances and amendments thereto;

(c) Providing advice relating to the interpretation or application of county ordinances;

(d) Providing advice relating to the impact of federal or state law on the county;

(e) Drawing all legal papers on behalf of the board of county commissioners; and

(f) At all times, ~~give~~ giving his or her advice, including written legal opinions, when required, to the members of the board of county commissioners upon matters relating to their duties.

**Sec. 5.** ~~[1. This section and sections 1, 2 and 4 of this act become effective upon passage and approval.~~

~~2. Section 2 of this act expires by limitation on June 30, 2011.~~

~~3. Section 3 of this act becomes effective on July 1, 2011.]~~ (Deleted by amendment.)