

Amendment No. 53

Assembly Amendment to Assembly Bill No. 62

(BDR 18-202)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes 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.

SLP/TMC



Date: 3/31/2011

A.B. No. 62—Revises provisions relating to the Office of the Attorney General.
(BDR 18-202)



ASSEMBLY BILL NO. 62—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED DECEMBER 15, 2010

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the Office of the Attorney General.
(BDR 18-202)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 the Office of the Attorney General; authorizing the Attorney General to charge a fee for the prosecution of certain **felony** cases; ~~authorizing the Attorney General to charge the office of a district attorney or city attorney a fee for issuing a written opinion;~~ authorizing the Attorney General to charge a regulatory body for certain training services provided by the Attorney General; authorizing the Attorney General to charge the Board of Homeopathic Medical Examiners, the State Board of Oriental Medicine and the Board of Psychological Examiners for all services relating to certain investigations conducted by the Attorney General; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Attorney General to prosecute a criminal case upon the request of a district attorney ~~and requires the Attorney General to issue a written opinion upon the request of a district attorney or city attorney.~~ (NRS 228.130 ~~to 228.150~~) **Section 1** of this bill authorizes the Attorney General to charge a county reasonable legal fees for the prosecution of a ~~criminal case, and section 2 of this bill authorizes the Attorney General to charge the office of a district attorney or city attorney a reasonable fee for issuing a written opinion.~~ **category A or B felony.**

Existing law requires the Attorney General to provide training to a new member of a regulatory body. (NRS 622.200) **Section 3** of this bill authorizes the Attorney General to charge a regulatory body for providing training to a new member of a regulatory body.

Existing law requires the Board of Homeopathic Medical Examiners, the State Board of Oriental Medicine and the Board of Psychological Examiners to transmit to the Attorney General complaints concerning certain persons regulated by those boards. Existing law further requires the Attorney General to investigate each such complaint. (NRS 630A.400, 630A.410, 634A.085, 641.270, 641.271) **Section 4** of this bill authorizes the Board of Homeopathic Medical Examiners to retain the Attorney General to investigate a complaint against a homeopathic physician, and **section 5** of this bill authorizes the Attorney General to charge

the Board for all services related to the investigation. **Section 6** of this bill authorizes the State Board of Oriental Medicine to retain the Attorney General to investigate a complaint against a doctor of Oriental medicine and authorizes the Attorney General to charge the Board for all services related to the investigation. **Section 7** of this bill authorizes the Board of Psychological Examiners to retain the Attorney General to investigate a complaint against a psychologist, and **section 8** of this bill authorizes the Attorney General to charge the Board for all services related to the investigation.

Existing law requires the Board of Dispensing Opticians to submit a biennial report to the Attorney General. (NRS 637.080) **Section 9** of this bill repeals the provision requiring the Board of Dispensing Opticians to submit a biennial report to the Attorney General.

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

Section 1. NRS 228.130 is hereby amended to read as follows:

228.130 1. In all criminal cases where, in the judgment of the district attorney, the personal presence of the Attorney General or the presence of a deputy or special investigator is required in cases mentioned in subsection 2, before making a request upon the Attorney General for such assistance the district attorney must first present his or her reasons for making the request to the board of county commissioners of his or her county and have the board adopt a resolution joining in the request to the Attorney General.

2. In all criminal cases where help is requested from the Attorney General's Office, as mentioned in subsection 1, in the presentation of criminal cases before a committing magistrate, grand jury, or district court, the board of county commissioners of the county making such request shall, upon the presentation to the board of a duly verified claim setting forth the expenses incurred, pay from the general funds of the county the actual and necessary traveling expenses of the Attorney General or his or her deputy or his or her special investigator from Carson City, Nevada, to the place where such proceedings are held and return therefrom, and also pay the amount of money actually expended by such person for board and lodging from the date such person leaves until the date he or she returns to Carson City.

3. This section shall not be construed as directing or requiring the Attorney General to appear in any proceedings mentioned in subsection 2, but in acting upon any such request the Attorney General may exercise his or her discretion, and his or her judgment in such matters ~~shall be~~ is final.

4. In addition to any payment of expenses pursuant to subsection 2, the Attorney General may charge ~~a reasonable fee~~ for ~~legal services provided~~ the costs of providing assistance in the prosecution of a category A or B felony pursuant to this section. ~~The fee~~ Such costs must be charged for services ~~on an hourly basis in an amount sufficient to pay the salary and other expenses of the deputy attorney general who provides the services~~ in a manner consistent with the amount charged to state agencies pursuant to subsection 3 of NRS 228.113.

Sec. 2. ~~NRS 228.150 is hereby amended to read as follows:~~

~~228.150 1. When requested, the Attorney General shall give his or her opinion, in writing, upon any question of law, to the Governor, the Secretary of State, the State Controller, the State Treasurer, the Director of the Department of Corrections, to the head of any state department, agency, board or commission, to any district attorney and to any city attorney of any incorporated city within the State of Nevada, upon any question of law relating to their respective offices, departments, agencies, boards or commissions.~~

~~2. Nothing contained in subsection 1 requires the Attorney General to give his or her written opinion to any city attorney concerning questions relating to the interpretation or construction of city ordinances.~~

~~3. [The] Except as otherwise provided in this section, the Attorney General is not entitled to receive any fee for the performance of any duty required of him or her by law, but money may be paid to his or her office or pursuant to law or an agreement with an agency of the State for the performance of any duty or service by his or her office.~~

~~4. The Attorney General may charge the office of a district attorney or city attorney a reasonable fee for providing a written opinion pursuant to subsection 1. The fee must be charged for services on an hourly basis in an amount sufficient to pay the salary and other expenses of the deputy attorney general who provides the services.~~ **(Deleted by amendment.)**

Sec. 3. NRS 622.200 is hereby amended to read as follows:

622.200 **1.** As soon as practicable after a person is first appointed to serve as a member of a regulatory body, the person must be provided with:

~~[(1)]~~ **(a)** A written summary of the duties and responsibilities of a member of the regulatory body; and

~~[(2)]~~ **(b)** Training on those duties and responsibilities by the Attorney General. The training must include, without limitation, instruction related to the audit that is required by NRS 218G.400, except that a person who is a member of the Nevada State Board of Accountancy is not required to be provided with instruction related to that audit.

2. The Attorney General may, in accordance with the provisions of NRS 228.113, charge a regulatory body for all training provided pursuant to paragraph (b) of subsection 1.

Sec. 4. NRS 630A.400 is hereby amended to read as follows:

630A.400 **1.** The Board or a committee of its members designated by the Board shall review every complaint filed with the Board and conduct an investigation to determine whether there is a reasonable basis for compelling a homeopathic physician to take a mental or physical examination or an examination of his or her competence to practice homeopathic medicine.

2. If a committee is designated, it must be composed of at least three members of the Board, at least one of whom is a licensed homeopathic physician.

3. If, from the complaint or from other official records, it appears that the complaint is not frivolous and the complaint charges gross or repeated malpractice, the Board ~~[shall]~~ **may:**

(a) Retain the Attorney General to investigate the complaint; and

(b) If the Board retains the Attorney General, transmit the original complaint, along with further facts or information derived from its own review, to the Attorney General.

4. Following ~~the~~ **an** investigation, the committee shall present its evaluation and recommendations to the Board. The Board shall review the committee's findings to determine whether to take any further action, but a member of the Board who participated in the investigation may not participate in this review or in any subsequent hearing or action taken by the Board.

Sec. 5. NRS 630A.410 is hereby amended to read as follows:

630A.410 **1.** ~~[(The)]~~ **If the Board retains the Attorney General pursuant to NRS 630A.400, the** Attorney General shall conduct an investigation of ~~[each]~~ **the** complaint transmitted to the Attorney General to determine whether it warrants proceedings for modification, suspension or revocation of license. If the Attorney General determines that such further proceedings are warranted, the Attorney General shall report the results of the investigation together with a recommendation

1 to the Board in a manner which does not violate the right of the person charged in
2 the complaint to due process in any later hearing before the Board.

3 2. The Board shall promptly make a determination with respect to each
4 complaint reported to it by the Attorney General as to what action shall be pursued.
5 The Board shall:

6 (a) Dismiss the complaint; or

7 (b) Proceed with appropriate disciplinary action.

8 *3. If the Board retains the Attorney General pursuant to NRS 630A.400, the*
9 *Attorney General may, in accordance with the provisions of NRS 228.113, charge*
10 *the Board for all services relating to the investigation of a complaint.*

11 **Sec. 6.** NRS 634A.085 is hereby amended to read as follows:

12 634A.085 1. If a written complaint regarding a ~~licensee~~ *doctor of Oriental*
13 *medicine* is filed with the Board, the Board shall review the complaint. If, from the
14 complaint or from other records, it appears that the complaint is not frivolous, the
15 Board ~~shall~~ *may*:

16 (a) *Retain the Attorney General to investigate the complaint; and*

17 (b) *If the Board retains the Attorney General*, transmit the original complaint
18 and any facts or information obtained from the review to the Attorney General.

19 2. ~~The~~ *If the Board retains the Attorney General*, the Attorney General
20 shall conduct an investigation of the complaint *transmitted to the Attorney General*
21 to determine whether it warrants proceedings for the modification, suspension or
22 revocation of the license. If the Attorney General determines that further
23 proceedings are warranted, the Attorney General shall report the results of the
24 investigation and any recommendation to the Board.

25 3. The Board shall promptly make a determination with respect to each
26 complaint reported to it by the Attorney General. The Board shall:

27 (a) Dismiss the complaint; or

28 (b) Proceed with appropriate disciplinary action.

29 4. The Board shall retain all complaints received by the Board pursuant to this
30 section for at least 10 years, including, without limitation, any complaints not acted
31 upon.

32 *5. If the Board retains the Attorney General, the Attorney General may, in*
33 *accordance with the provisions of NRS 228.113, charge the Board for all services*
34 *relating to the investigation of a complaint pursuant to subsection 2.*

35 **Sec. 7.** NRS 641.270 is hereby amended to read as follows:

36 641.270 When a complaint is filed with the Board, it shall review the
37 complaint. If, from the complaint or from other official records, it appears that the
38 complaint is not frivolous, the Board ~~shall~~ *may*:

39 1. *Retain the Attorney General to investigate the complaint; and*

40 2. *If the Board retains the Attorney General*, transmit the original complaint,
41 along with further facts or information derived from the review, to the Attorney
42 General.

43 **Sec. 8.** NRS 641.271 is hereby amended to read as follows:

44 641.271 1. ~~The~~ *If the Board retains the Attorney General pursuant to*
45 *NRS 641.270, the* Attorney General shall conduct an investigation of ~~each~~ *a*
46 complaint transmitted to ~~him or her by the Board~~ *the Attorney General* to
47 determine whether it warrants proceedings for the modification, suspension or
48 revocation of the license. If the Attorney General determines that further
49 proceedings are warranted, he or she shall report the results of the investigation
50 together with a recommendation to the Board in a manner which does not violate
51 the right of the person charged in the complaint to due process in any later hearing
52 on the complaint.

1 2. The Board shall promptly make a determination with respect to each
2 complaint reported to it by the Attorney General. The Board shall:

3 (a) Dismiss the complaint; or

4 (b) Proceed with appropriate disciplinary action.

5 3. *If the Board retains the Attorney General pursuant to NRS 641.270, the*
6 *Attorney General may, in accordance with the provisions of NRS 228.113, charge*
7 *the Board for all services relating to the investigation of a complaint pursuant to*
8 *subsection 1.*

9 **Sec. 9.** NRS 637.080 is hereby repealed.

10 **Sec. 10.** This act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

637.080 Report of Board to Attorney General. Before September 1 of each even-numbered year, for the biennium ending June 30 of such year, the Board shall submit to the Attorney General a written report. The report must include:

1. The names of all dispensing opticians to whom licenses have been granted as provided in this chapter.

2. Any cases heard and decisions rendered by the Board.

3. The recommendations of the Board as to future policies.

➤ Each member of the Board shall review and sign the report before it is submitted to the Attorney General.