

ASSEMBLY BILL NO. 4—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA LEAGUE OF
CITIES AND MUNICIPALITIES)

PREFILED DECEMBER 19, 2012

Referred to Committee on Government Affairs

SUMMARY—Revises certain provisions governing public records
and legal notices. (BDR 19-259)

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 governmental administration; authorizing the State or a local government, under certain circumstances, to publish a legal notice or legal advertisement on an Internet website maintained by the State or local government in lieu of publishing the legal notice or legal advertisement in a newspaper of general circulation; requiring the State or a local government to publish certain information in a newspaper of general circulation if the State or local government publishes a legal notice or legal advertisement on an Internet website; authorizing a public body to charge and collect a fee for providing, upon request, a copy of certain public records under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires the State and local governments to publish a legal notice
- 2 or legal advertisement in certain newspapers of general circulation and also
- 3 establishes the procedures and requirements for such publication. (NRS 238.030)
- 4 **Section 1** of this bill authorizes the State or a local government to publish a legal
- 5 notice or legal advertisement on an Internet website maintained by the State or local
- 6 government, as applicable, in lieu of publishing the legal notice or legal
- 7 advertisement in a newspaper of general circulation, unless a law of this State
- 8 specifically prohibits publication of the legal notice or legal advertisement on an



Internet website. If the State or a local government publishes a legal notice or legal advertisement on an Internet website, **section 1** requires the State or local government to publish in a newspaper in which the legal notice or legal advertisement would have otherwise been published the Internet address of the Internet website on which the legal notice or legal advertisement is published. **Section 1** additionally requires publication on the Internet website and in the newspaper of the mailing address and phone number at which a person may request or obtain a copy of the legal notice or legal advertisement.

Existing law requires a public body to provide, upon request and free of charge, at least one copy of certain public documents relating to a meeting of the public body. (NRS 241.020) **Section 6** of this bill authorizes the public body to charge a fee for providing such a copy, unless the copy is provided electronically. Existing law prohibits, with limited exceptions, such a fee from exceeding the actual cost to the public body of providing the copy, authorizes the public body to waive all or a portion of the fee and requires the public body to prepare and maintain a list of the fees that it charges at certain locations. (NRS 239.052)

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

Section 1. Chapter 238 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise specifically prohibited by a law of this State, the State or a local government may, in lieu of publishing a legal notice or legal advertisement in a newspaper of general circulation, publish on an Internet website maintained by the State or local government, as applicable, any legal notice or legal advertisement that the State or local government is otherwise required to publish in a newspaper of general circulation.

2. If the State or a local government publishes a legal notice or legal advertisement on an Internet website pursuant to subsection 1, the State or local government shall, for the period otherwise prescribed by law for the publication in a newspaper of general circulation of the legal notice or legal advertisement, continuously and uninterruptedly publish:

(a) On the Internet website maintained by the State or local government:

(1) The legal notice or legal advertisement; and

(2) The mailing address and telephone number of the State or local government at which a person may request or obtain a copy of the legal notice or legal advertisement; and

(b) In a newspaper in which the legal notice or legal advertisement would have otherwise been published:

(1) The Internet address of the Internet website maintained by the State or local government on which the legal notice or legal advertisement is published; and



(2) *The mailing address and telephone number of the State or local government at which a person may request or obtain a copy of the legal notice or legal advertisement.*

3. *As used in this section:*

(a) *"Local government" means a local government or any board, commission, department or other agency or instrumentality thereof.*

(b) *"State" means the State of Nevada or any board, commission, department or other agency or instrumentality thereof.*

Sec. 2. NRS 238.010 is hereby amended to read as follows:

238.010 Any notice or other written matter ~~whatsoever, required to~~ *that must* be published in a newspaper ~~by~~ *or on an Internet website pursuant to* any law of this State, or ~~by~~ *pursuant to* the order of any court of record in this State, ~~shall be deemed and held to be~~ *is* a legal notice or *legal* advertisement within the meaning of NRS 238.010 to 238.080, inclusive ~~it~~ *, and section 1 of this act.*

Sec. 3. NRS 238.030 is hereby amended to read as follows:

238.030 1. ~~Any and all~~ *Except as otherwise provided in section 1 of this act, a* legal ~~notice~~ *notice* or ~~advertisements shall~~ *legal advertisement must* be published ~~only~~ in a daily, ~~a~~ triweekly, ~~a~~ semiweekly, ~~a~~ semimonthly ~~it~~ or ~~a~~ weekly newspaper of general circulation and *must be* printed in whole or in part in the county in which the *legal* notice or *legal* advertisement is required to be published. ~~which~~ *If the* newspaper ~~it~~ *is* published:

(a) Triweekly, semiweekly, semimonthly ~~it~~ or weekly, ~~shall have been so~~ *the legal notice or legal advertisement must be* published in the county, continuously and uninterruptedly, ~~during the period of~~ *for* at least 104 consecutive weeks ~~next prior to~~ *after* the ~~first issue thereof containing any such~~ *initial publication of the legal* notice or *legal* advertisement.

(b) Daily, ~~shall have been so~~ *the legal notice or legal advertisement must be* published in the county, uninterruptedly and continuously, ~~during the period of~~ *for* at least 1 year ~~next prior to~~ *after* the ~~first issue thereof containing any such~~ *initial publication of the legal* notice or *legal* advertisement.

2. ~~The mere~~ *A* change in the name of ~~any~~ *a* newspaper, or the removal of the principal business office or seat of publication of ~~any~~ *a* newspaper from one place to another in the same county ~~shall~~ *, does* not break or affect the continuity in the publication of ~~any such~~ *the* newspaper if the ~~same~~ *newspaper* is ~~in fact~~ continuously and uninterruptedly printed and published within the county as herein provided.



3. A ~~newspaper shall not lose its rights as a~~ legal ~~publication~~ notice or legal advertisement is not void if ~~any of the following conditions maintain:~~ the newspaper in which the legal notice or legal advertisement is published suspends publication:

(a) ~~If by reason~~ For not more than 30 days in a calendar year as a result of a strike or for other good cause . ~~it should suspend publication; but the period shall not exceed 30 days in any calendar year.~~

(b) ~~If by reason~~ For not more than 2 years as a result of generally recognized economic stress of a serious nature over which the publisher has no control . ~~it shall be necessary to suspend publication for a period not to exceed 2 years.~~ The provisions of this paragraph ~~shall~~ apply only ~~in the case of~~ to publications that have been operating continuously for ~~a period of~~ at least 5 years ~~prior to such~~ before suspension ~~. Any~~ of publication. A legal notice or legal advertisement which ~~fails of publication~~ is not published for the required ~~number of insertions~~ period for such reason ~~shall not be declared illegal~~ is not void if ~~publication has been made~~ the legal notice or legal advertisement is published in one issue of the newspaper and publication ~~and~~ is resumed within a reasonable period.

4. If a newspaper is not published in ~~any~~ a county in this State ~~there shall not have been published therein any newspaper or newspapers for the prescribed~~ during the period ~~at the time when any such~~ in which a legal notice or legal advertisement is required to be published ~~then such~~ in the county, the legal notice or legal advertisement may be published in any newspaper ~~for newspapers having a~~ of general circulation ~~and~~ which is printed and published in whole or in part in the county.

5. The ~~time limitations in~~ period for publication prescribed by subsection 1 ~~do~~ does not apply to a newly established newspaper printed and published in:

(a) An incorporated city if, at the time ~~such~~ the newspaper is established, there is no other newspaper printed and published in ~~such~~ the incorporated city.

(b) A county if, at the time ~~such~~ the newspaper is established, there is no other newspaper printed and published in ~~such~~ the county.

Sec. 4. NRS 238.050 is hereby amended to read as follows:

238.050 Except as otherwise provided by law in express terms or by necessary implication, a daily , ~~newspapers,~~ triweekly , ~~newspapers,~~ semiweekly , ~~newspapers,~~ semimonthly ~~newspapers and~~ or weekly ~~newspapers shall all be equally competent~~ newspaper or an Internet website maintained by the State or a local government may serve as the means for the



1 publication of ~~fall~~ a legal ~~notices and advertisements~~ *notice or*
2 *legal advertisement.*

3 **Sec. 5.** NRS 238.080 is hereby amended to read as follows:

4 238.080 ~~Any and every~~ A legal notice or *legal* advertisement
5 published in a newspaper *or on an Internet website* in violation of
6 any of the provisions of NRS 238.010 to 238.080, inclusive, ~~shall~~
7 ~~be absolutely~~ *and section 1 of this act is* void.

8 **Sec. 6.** NRS 241.020 is hereby amended to read as follows:

9 241.020 1. Except as otherwise provided by specific statute,
10 all meetings of public bodies must be open and public, and all
11 persons must be permitted to attend any meeting of these public
12 bodies. A meeting that is closed pursuant to a specific statute may
13 only be closed to the extent specified in the statute allowing the
14 meeting to be closed. All other portions of the meeting must be open
15 and public, and the public body must comply with all other
16 provisions of this chapter to the extent not specifically precluded by
17 the specific statute. Public officers and employees responsible for
18 these meetings shall make reasonable efforts to assist and
19 accommodate persons with physical disabilities desiring to attend.

20 2. Except in an emergency, written notice of all meetings must
21 be given at least 3 working days before the meeting. The notice
22 must include:

23 (a) The time, place and location of the meeting.

24 (b) A list of the locations where the notice has been posted.

25 (c) An agenda consisting of:

26 (1) A clear and complete statement of the topics scheduled to
27 be considered during the meeting.

28 (2) A list describing the items on which action may be taken
29 and clearly denoting that action may be taken on those items by
30 placing the term "for possible action" next to the appropriate item.

31 (3) Periods devoted to comments by the general public, if
32 any, and discussion of those comments. Comments by the general
33 public must be taken:

34 (I) At the beginning of the meeting before any items on
35 which action may be taken are heard by the public body and again
36 before the adjournment of the meeting; or

37 (II) After each item on the agenda on which action may
38 be taken is discussed by the public body, but before the public body
39 takes action on the item.

40 ➔ The provisions of this subparagraph do not prohibit a public body
41 from taking comments by the general public in addition to what is
42 required pursuant to sub-subparagraph (I) or (II). Regardless of
43 whether a public body takes comments from the general public
44 pursuant to sub-subparagraph (I) or (II), the public body must allow
45 the general public to comment on any matter that is not specifically



1 included on the agenda as an action item at some time before
2 adjournment of the meeting. No action may be taken upon a
3 matter raised during a period devoted to comments by the general
4 public until the matter itself has been specifically included on an
5 agenda as an item upon which action may be taken pursuant to
6 subparagraph (2).

7 (4) If any portion of the meeting will be closed to consider
8 the character, alleged misconduct or professional competence of a
9 person, the name of the person whose character, alleged misconduct
10 or professional competence will be considered.

11 (5) If, during any portion of the meeting, the public body will
12 consider whether to take administrative action against a person, the
13 name of the person against whom administrative action may be
14 taken.

15 (6) Notification that:

16 (I) Items on the agenda may be taken out of order;

17 (II) The public body may combine two or more agenda
18 items for consideration; and

19 (III) The public body may remove an item from the
20 agenda or delay discussion relating to an item on the agenda at any
21 time.

22 (7) Any restrictions on comments by the general public. Any
23 such restrictions must be reasonable and may restrict the time, place
24 and manner of the comments, but may not restrict comments based
25 upon viewpoint.

26 3. Minimum public notice is:

27 (a) Posting a copy of the notice at the principal office of the
28 public body or, if there is no principal office, at the building in
29 which the meeting is to be held, and at not less than three other
30 separate, prominent places within the jurisdiction of the public body
31 not later than 9 a.m. of the third working day before the meeting;
32 and

33 (b) Providing a copy of the notice to any person who has
34 requested notice of the meetings of the public body. A request for
35 notice lapses 6 months after it is made. The public body shall inform
36 the requester of this fact by enclosure with, notation upon or text
37 included within the first notice sent. The notice must be:

38 (1) Delivered to the postal service used by the public body
39 not later than 9 a.m. of the third working day before the meeting for
40 transmittal to the requester by regular mail; or

41 (2) If feasible for the public body and the requester has
42 agreed to receive the public notice by electronic mail, transmitted to
43 the requester by electronic mail sent not later than 9 a.m. of the third
44 working day before the meeting.



4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide ~~it, at no charge, at least one~~ *a* copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;

(2) Pertaining to the closed portion of such a meeting of the public body; or

(3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.

➔ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public *for inspection* at the meeting to which the documents pertain ~~It and may, upon receiving a request for a copy of any such document pursuant to this subsection, charge and collect a fee pursuant to NRS 239.052 for providing a copy of the document, unless the requester agrees to receive the copy of the document electronically.~~ As used in this subsection, "proprietary information" has the meaning ascribed to it in NRS 332.025.

6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

(a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or

(b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.



1 ➤ If the requester has agreed to receive the information and material
2 set forth in subsection 5 by electronic mail, the public body shall, if
3 feasible, provide the information and material by electronic mail.

4 7. A public body may provide the public notice, information
5 and material required by this section by electronic mail. If a public
6 body makes such notice, information and material available by
7 electronic mail, the public body shall inquire of a person who
8 requests the notice, information or material if the person will accept
9 receipt by electronic mail. The inability of a public body, as a result
10 of technical problems with its electronic mail system, to provide a
11 public notice, information or material required by this section to a
12 person who has agreed to receive such notice, information or
13 material by electronic mail shall not be deemed to be a violation of
14 the provisions of this chapter.

15 8. As used in this section, “emergency” means an unforeseen
16 circumstance which requires immediate action and includes, but is
17 not limited to:

18 (a) Disasters caused by fire, flood, earthquake or other natural
19 causes; or

20 (b) Any impairment of the health and safety of the public.

21 **Sec. 7.** This act becomes effective on July 1, 2013.

