

Amendment No. 716

Senate Amendment to Assembly Bill No. 293 First Reprint	(BDR 20-168)
Proposed by: Senate Committee on Government Affairs	
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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

SJA/HAC



Date: 5/20/2015

A.B. No. 293—Revises provisions relating to public administrators. (BDR 20-168)



ASSEMBLY BILL NO. 293--ASSEMBLYMAN
OSCARSON (BY REQUEST)

MARCH 13, 2015

JOINT SPONSOR: SENATOR GOICOECHEA

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public administrators. (BDR 20-168)

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 public administrators; setting forth certain qualifications for deputy public administrators; authorizing the board of county commissioners in smaller counties to impose certain duties on the public administrators of the county; ***revising the circumstances under which a public administrator may secure the property of a deceased person;*** authorizing a board of county commissioners to take certain action concerning complaints received by the board against the public administrator; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a public administrator to meet certain qualifications for office. (NRS 253.010) Existing law also authorizes a public administrator to appoint as many deputy public administrators as he or she deems necessary and authorizes a deputy public administrator to perform all duties required of the public administrator. (NRS 253.025) ***Section 1*** of this bill requires a deputy public administrator, like a public administrator, to: (1) be a qualified elector of the county; (2) be 21 years of age or older; (3) not have been convicted of a felony for which his or her civil rights have not been restored by a court of competent jurisdiction; and (4) not have been found liable in a civil action involving fraud, misrepresentation, material omission, misappropriation, theft or conversion.

Existing law authorizes a public administrator, without procuring letters of administration and upon filing with the court an affidavit of his or her right to do so, to administer an estate in which the gross value of the decedent's property does not exceed \$20,000. (NRS 253.0403) ***Section 1.5*** of this bill increases this threshold amount to \$25,000.

Under existing law, a public administrator may secure the property of a deceased person before the issuance of letters of administration for the estate of the decedent, before filing an affidavit to administer the estate or before petitioning to have the estate set aside without administration if the public administrator finds that there are no relatives of the decedent who are able to protect the property or that the failure to secure the property could endanger the property. (NRS 253.0405) Section 1.7 of this bill instead authorizes a public administrator to act on behalf of the estate of a deceased person to

identify and secure all tangible and intangible assets of the estate before the issuance of letters of administration, before filing the affidavit, before petitioning to have the estate set aside without administration and without giving notice to next of kin if the public administrator finds that there are no relatives of the decedent who are able to protect the property or that the failure to secure the property could endanger the property.

Section 1.7 also prohibits a public administrator from distributing, liquidating or otherwise administering the assets of an estate before a court has issued letters of administration for the estate or otherwise authorized the public administrator to act as administrator of the estate. Additionally, section 1.7 authorizes a public administrator who has identified and secured the assets of an estate to authorize a relative of the decedent, a named executor or trustee of the estate or an attorney or other natural person designated by the next of kin of the decedent to access the real and personal property of the estate.

Existing law sets forth the duties of a public administrator in administering the estate of an intestate decedent. (NRS 253.0415) **Section 2** of this bill authorizes the board of county commissioners, in a county whose population is less than 100,000, to require by ordinance, the public administrator, if he or she has been made an administrator of the estate of an intestate decedent who resides in the county, to notify or obtain permission from the board before taking any property belonging to the decedent out of the county.

Existing law authorizes a board of county commissioners to investigate any complaint received by the board against the public administrator. (NRS 253.091) **Section 3** of this bill authorizes the board to take any appropriate action that it deems necessary to resolve such a complaint. **Section 3** also authorizes the board of county commissioners, in a county whose population is less than 100,000, to require, by ordinance, a public administrator to submit an independent audit report to the board on an annual basis, which covers the records and office of the public administrator.

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

Section 1. NRS 253.025 is hereby amended to read as follows:

253.025 1. A public administrator may appoint as many deputies as the public administrator deems necessary to perform fully the duties of his or her office. A deputy so appointed may perform all duties required of the public administrator and has the corresponding powers and responsibilities. Before entering upon the discharge of his or her duties each deputy must take and subscribe to the constitutional oath of office. The appointment of a deputy must not be construed to confer upon that deputy policymaking authority for the office of the county public administrator or the county by which the deputy is employed.

2. Each appointment must be in writing and recorded with the oath of office of that deputy in the office of the county recorder. Any revocation or resignation of an appointment must be recorded in the office of the county recorder.

3. The public administrator is responsible on his or her official bond for any official malfeasance or nonfeasance of his or her deputies and may require a bond for the faithful performance of the official duties of his or her deputies.

4. *Every deputy appointed pursuant to this section must:*

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

(b) *Be at least 21 years of age;*

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

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

1 **Sec. 1.5.** NRS 253.0403 is hereby amended to read as follows:

2 253.0403 1. When the gross value of a decedent's property situated in this
3 State does not exceed ~~[\$20,000]~~ **\$25,000**, a public administrator may, without
4 procuring letters of administration, administer the estate of that person upon filing
5 with the court an affidavit of his or her right to do so.

6 2. The affidavit must provide:

7 (a) The public administrator's name and address, and his or her attestation that
8 he or she is entitled by law to administer the estate;

9 (b) The decedent's place of residence at the time of his or her death;

10 (c) That the gross value of the decedent's property in this State does not exceed
11 ~~[\$20,000]~~ **\$25,000**;

12 (d) That at least 40 days have elapsed since the death of the decedent;

13 (e) That no application or petition for the appointment of a personal
14 representative is pending or has been granted in this State;

15 (f) A description of the personal property of the decedent;

16 (g) Whether there are any heirs or next of kin known to the affiant, and if
17 known, the name and address of each such person;

18 (h) If heirs or next of kin are known to the affiant, a description of the method
19 of service the affiant used to provide to each of them notice of the affidavit and that
20 at least 10 days have elapsed since the notice was provided;

21 (i) That all debts of the decedent, including funeral and burial expenses, have
22 been paid or provided for; and

23 (j) The name of each person to whom the affiant intends to distribute the
24 decedent's property.

25 3. Before filing the affidavit with the court, the public administrator shall take
26 reasonable steps to ascertain whether any of the decedent's heirs or next of kin
27 exist. If the administrator determines that heirs or next of kin exist, the
28 administrator shall serve each of them with a copy of the affidavit. Service must be
29 made personally or by certified mail.

30 4. If the affiant:

31 (a) Submits an affidavit which does not meet the requirements of subsection 2
32 or which contains statements which are not entirely true, any money or property the
33 affiant receives or distributes is subject to all debts of the decedent, based on the
34 priority for payment of debts and charges specified in NRS 147.195.

35 (b) Fails to give notice to heirs or next of kin as required by subsection 3, any
36 money or property the affiant holds or distributes to others shall be deemed to be
37 held in trust for those heirs and next of kin who did not receive notice and have an
38 interest in the property.

39 5. A person who receives an affidavit containing the information required by
40 subsection 2 is entitled to rely upon such information, and if the person relies in
41 good faith, he or she is immune from civil liability for actions based on that
42 reliance.

43 6. Upon receiving proof of the death of the decedent, an affidavit containing
44 the information required by this section and the written approval of the public
45 administrator to do so:

46 (a) A transfer agent of any security shall change the registered ownership of
47 the security claimed from the decedent to the person claiming to succeed to
48 ownership of that security.

49 (b) A governmental agency required to issue certificates of title, ownership or
50 registration to personal property shall issue a new certificate of title, ownership or
51 registration to the person claiming to succeed to ownership of the property.

52 **Sec. 1.7. NRS 253.0405 is hereby amended to read as follows:**

53 253.0405 ~~[Before]~~

1 1. Subject to the provisions of subsections 2 and 3, before the issuance of the
2 letters of administration for an estate, before filing an affidavit to administer an
3 estate pursuant to NRS 253.0403, ~~for~~ before petitioning to have an estate set aside
4 pursuant to NRS 253.0425, and without giving notice to the next of kin, the public
5 administrator may act on behalf of the estate of a deceased person to identify and
6 secure the property of a deceased person all tangible and intangible assets of the
7 estate if the administrator finds that:

8 ~~1.1~~ (a) There are no relatives of the deceased who are able to protect the
9 property; or

10 ~~1.2~~ (b) Failure to do so could endanger the property.

11 2. A public administrator shall not distribute, liquidate or otherwise
12 administer any assets of an estate which are identified and secured pursuant to
13 subsection 1 unless:

14 (a) A court has issued letters of administration for the estate; or

15 (b) A court order authorizing the public administrator to act as administrator
16 of the estate has been issued.

17 3. A public administrator may, for the purpose of protecting the assets of an
18 estate which are identified and secured pursuant to subsection 1, authorize any of
19 the following persons to access the real and personal property of the estate:

20 (a) A relative of the deceased;

21 (b) A named executor or named trustee of the estate; or

22 (c) An attorney or any other natural person designated by the next of kin of
23 the deceased.

24 **Sec. 2.** NRS 253.0415 is hereby amended to read as follows:

25 253.0415 1. The public administrator shall:

26 (a) Investigate:

27 (1) The financial status of any decedent for whom he or she has been
28 requested to serve as administrator to determine the assets and liabilities of the
29 estate.

30 (2) Whether there is any qualified person who is willing and able to serve
31 as administrator of the estate of an intestate decedent to determine whether he or
32 she is eligible to serve in that capacity.

33 (3) Whether there are beneficiaries named on any asset of the estate or
34 whether any deed upon death executed pursuant to NRS 111.655 to 111.699,
35 inclusive, is on file with the county recorder.

36 (b) Except as otherwise provided in NRS 253.0403 and 253.0425, petition the
37 court for letters of administration of the estate of an intestate decedent if, after
38 investigation, the public administrator finds that there is no other qualified person
39 having a prior right who is willing and able to serve.

40 (c) Upon court order, act as administrator of the estate of an intestate decedent,
41 regardless of the amount of assets in the estate of the decedent if no other qualified
42 person is willing and able to serve.

43 2. The public administrator shall not administer any estate:

44 (a) Held in joint tenancy unless all joint tenants are deceased; or

45 (b) For which a deed upon death has been executed pursuant to NRS 111.655
46 to 111.699, inclusive.

47 3. In a county whose population is less than 100,000, the board of county
48 commissioners may, by ordinance, require the public administrator to notify or
49 obtain approval from the board of county commissioners before transporting
50 outside the county any property of a decedent for whose estate the public
51 administrator serves as administrator.

52 4. As used in this section, "intestate decedent" means a person who has died
53 without leaving a valid will, trust or other estate plan.

1 **Sec. 3.** NRS 253.091 is hereby amended to read as follows:

2 253.091 1. The board of county commissioners shall:

3 (a) Establish regulations for the form of any reports made by the public
4 administrator.

5 (b) Review reports submitted to the board by the public administrator.

6 (c) Investigate any complaint received by the board against the public
7 administrator ~~and~~ *and take any appropriate action it deems necessary to resolve the*
8 *complaint.*

9 2. The board of county commissioners may at any time investigate any estate
10 for which the public administrator is serving as administrator.

11 3. *In a county whose population is less than 100,000, the board of county*
12 *commissioners may, by ordinance, require that, on or before March 1 of each*
13 *year, the public administrator submit to the board of county commissioners an*
14 *independent audit report prepared by a certified public accountant of the records*
15 *and office of the public administrator. The ordinance must:*

16 (a) *Provide that each such audit report cover the period starting January 1 of*
17 *the previous calendar year and ending December 31 of the previous calendar*
18 *year.*

19 (b) *Prescribe who is responsible for paying the costs of the audit.*

20 **Sec. 4.** This act becomes effective on July 1, 2015.