

SENATE BILL NO. 118—SENATOR SMITH

PREFILED FEBRUARY 1, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions of the Charter of the City of Sparks. (BDR S-500)

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 City of Sparks; revising certain provisions of the Charter of the City of Sparks relating to the Municipal Court; providing that certain authority of the City Manager does not extend to the appointment of employees of the Municipal Court, investigations of the Municipal Court or the designation of salaries of employees of the Municipal Court; authorizing Municipal Judges to appoint employees; authorizing the Administrative Judge of the Municipal Court to prescribe the duties and salaries of employees appointed by the Municipal Judges and to prescribe the salaries of the Court Administrator and Judicial Assistants; providing that civil service rules for employees of the City do not apply to officers and employees of the Municipal Court; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Supreme Court recently held in *City of Sparks v. Sparks Municipal Court*, 129 Nev. Adv. Op. 38, 302 P.3d 1118 (2013), that certain provisions of the Charter of the City of Sparks that related to employees of the City's Municipal Court were unconstitutional. This bill makes various changes to the Charter to conform with that opinion.

Sections 1 and 2 of this bill provide that provisions of the Charter authorizing the City Manager to appoint employees of the City and direct their duties do not authorize the City Manager to appoint employees of the Municipal Court or direct the duties of those employees. **Section 3** of this bill provides that the authority of the City Manager to make investigations into various departments or divisions of the City does not include the authority to make investigations into the Municipal Court, except pursuant to an agreement with the Municipal Court. **Section 4** of this



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bill limits the authority of the City Manager to designate the salaries of employees in appointive positions to those employees who are appointed by the City Manager. **Section 5** of this bill authorizes the Municipal Judges to appoint employees in administering the affairs of the Municipal Court. The Administrative Judge shall prescribe the salary of each such employee. **Section 6** of this bill authorizes the Administrative Judge of the Municipal Court, who, under existing law, appoints and prescribes the duties of the Court Administrator, also to prescribe the salary of the Court Administrator. **Section 6** also deletes a provision requiring the Administrative Judge to file a description of the duties of the Court Administrator in the Personnel Office of the City. **Section 7** of this bill deletes a provision authorizing each Municipal Judge to appoint a Judicial Assistant only if authorized to do so by the City Council. Instead, the Administrative Judge may appoint, and prescribe the duties and salary of, a Judicial Assistant for each Municipal Judge. **Section 8** of this bill provides that the civil service rules for employees of the City do not apply to officers and employees of the Municipal Court.

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

Section 1. Section 1.080 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 32, Statutes of Nevada 2011, at page 133, is hereby amended to read as follows:

Sec. 1.080 Appointive positions.

1. The Mayor of the City shall appoint a City Manager, subject to confirmation by the City Council.

2. Except as otherwise provided in this Charter, the City Manager shall appoint the heads of each department.

3. Except as otherwise provided in this Charter, the City Manager or the designee of the City Manager may appoint any employee employed in a bona fide executive, administrative or professional capacity. ***This subsection does not authorize the City Manager or the designee of the City Manager to appoint any employee of the Municipal Court.***

As used in this subsection:

(a) "Employee employed in a bona fide executive capacity" has the meaning ascribed to it in 29 C.F.R. § 541.100.

(b) "Employee employed in a bona fide administrative capacity" has the meaning ascribed to it in 29 C.F.R. § 541.200.

(c) "Employee employed in a bona fide professional capacity" has the meaning ascribed to it in 29 C.F.R. § 541.300.



4. The City Manager shall create and revise as necessary a document which:

(a) Describes the organization of all departments, divisions and offices of the City; and

(b) Sets forth all appointive positions of the City.

Sec. 2. Section 1.090 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 450, Statutes of Nevada 1985, at page 1310, is hereby amended to read as follows:

Sec. 1.090 Appointive positions: Miscellaneous provisions.

1. Employees holding appointive positions *who are appointed by the City Manager pursuant to section 1.080* shall perform such duties as may be directed by the City Manager and such other duties as may be designated by ordinance.

2. The City Council may require from all employees of the City appointed under this Charter, sufficient security for the honest performance of their respective duties. The cost of the bond must be paid by the City.

3. A person appointed by the City Manager to any position may be removed from that position by the City Manager. The officer so removed has the right of appeal to the Mayor and City Council and may demand a hearing before the City Council. The demand must be made within 10 days after the removal. The decision and action of the City Council upon the hearing is final.

Sec. 3. Section 3.020 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as last amended by chapter 179, Statutes of Nevada 2013, at page 632, is hereby amended to read as follows:

Sec. 3.020 City Manager: Duties; residence.

1. The City Manager is responsible to the Council for the efficient administration of all the affairs of the City. He or she shall:

(a) Exercise a careful supervision of the City's general affairs.

(b) Enforce all laws and all acts of the Council which are subject to enforcement by him or her or by persons under his or her supervision.

(c) Except as otherwise provided in this Charter, *and to the extent authorized by law*, exercise control over all departments of the City government, its appointed officers and its employees ~~and~~, *other than the Municipal Court and its officers and employees.*



(d) Attend all meetings of the Council and its committees, except when the Council is considering his or her removal, with the right to take part in discussions, but without power to vote.

(e) Recommend to the Council the adoption of such measures and bills as he or she considers necessary or expedient.

(f) Make investigations into:

(1) The affairs of the City;

(2) ~~Any~~ ***Except as otherwise provided in subsection 3, any*** department or division of the City;

(3) Any contract; or

(4) The proper performance of any obligation owed to the City.

(g) Prepare and submit to the Council the annual budget.

(h) Keep the Council fully informed as to the financial condition and needs of the City.

(i) Submit to the Council, at least once each month, a summary of all claims and bills approved for payment by him or her.

(j) Not engage in any other business or occupation without the approval of the City Council.

(k) Perform such other duties as prescribed by this Charter or be required by ordinance or resolution of the Council.

2. The City Manager must establish his or her residence within the City within 90 days after his or her appointment, unless the period is extended by the Council. He or she must reside in the City during his or her term of office.

3. This section does not authorize the City Manager to make investigations into the Municipal Court, except pursuant to an agreement with the Municipal Court.

Sec. 4. Section 3.120 of the Charter of the City of Sparks, being chapter 470, Statutes of Nevada 1975, as amended by chapter 450, Statutes of Nevada 1985, at page 1318, is hereby amended to read as follows:

Sec. 3.120 Salaries. Employees in appointive positions ***who are appointed by the City Manager pursuant to section 1.080*** are entitled to receive the salary designated by the City Manager within the range established for each position by the City Council.



1 **Sec. 5.** The Charter of the City of Sparks, being chapter 470,
2 Statutes of Nevada 1975, at page 724, is hereby amended by adding
3 thereto a new section to be designated as section 4.027, immediately
4 following section 4.025, to read as follows:

5 ***Sec. 4.027 Municipal Court: Additional Employees.***

6 1. ***Each Municipal Judge may appoint, and prescribe***
7 ***the duties of, employees to assist in administering the affairs***
8 ***of the department of the Municipal Court presided over by***
9 ***that Municipal Judge, including, without limitation,***
10 ***marshals, clerks and interpreters. The Administrative Judge***
11 ***shall prescribe the salary of each such employee. The City***
12 ***Council may appropriate the money for the salary of each***
13 ***such employee.***

14 2. ***Each employee of the Municipal Court appointed***
15 ***pursuant to this section serves at the will of the Municipal***
16 ***Judge who appointed him or her, or the successor to that***
17 ***Municipal Judge, and may be removed without cause. A***
18 ***decision to remove such an employee is final. If an***
19 ***employee is removed, the money appropriated by the City***
20 ***Council for his or her salary reverts to the Municipal***
21 ***General Fund as soon as all payments of money committed***
22 ***have been made.***

23 **Sec. 6.** Section 4.023 of the Charter of the City of Sparks,
24 being chapter 128, Statutes of Nevada 1993, at page 226, is hereby
25 amended to read as follows:

26 Sec. 4.023 Municipal Court: Court Administrators.

27 1. The Administrative Judge may appoint a Court
28 Administrator and prescribe his or her duties ~~1. After~~
29 ~~appointing a Court Administrator, the Administrative Judge~~
30 ~~shall file in the Personnel Office of the City of Sparks a~~
31 ~~description of the duties of the Court Administrator.~~ ***and***
32 ***salary.*** The City Council may appropriate the money ~~1. It~~
33 ~~considers proper to compensate~~ ***for the salary of*** a Court
34 Administrator.

35 2. The Court Administrator serves at the will of the
36 Administrative Judge and may be removed without cause. A
37 decision by the Administrative Judge to remove a Court
38 Administrator is final. If a Court Administrator is removed,
39 the money appropriated by the City Council for his or her
40 ~~compensation~~ ***salary*** reverts to the Municipal General Fund
41 as soon as all payments of money committed have been
42 made.



1 **Sec. 7.** Section 4.025 of the Charter of the City of Sparks,
2 being chapter 128, Statutes of Nevada 1993, at page 226, is hereby
3 amended to read as follows:

4 Sec. 4.025 Municipal Court: Judicial Assistants.

5 1. The Administrative Judge may appoint a Judicial
6 Assistant ~~{-Each}~~ *for each* Municipal Judge ~~{may appoint a~~
7 ~~Judicial Assistant if authorized by the City Council.}~~ *and*
8 *prescribe the duties and salary of each Judicial Assistant.*
9 The City Council may appropriate the money ~~{it considers~~
10 ~~proper to compensate}~~ *for the salary of* a Judicial Assistant.

11 2. A Judicial Assistant serves at the will of the
12 *Administrative* Judge ~~{who appointed him or her}~~ and may be
13 removed without cause. A decision to remove a Judicial
14 Assistant is final. If a Judicial Assistant is removed, the
15 money appropriated by the City Council for his or her
16 ~~{compensation}~~ *salary* reverts to the Municipal General Fund
17 as soon as all payments of money committed have been
18 made.

19 **Sec. 8.** Section 9.190 of the Charter of the City of Sparks,
20 being chapter 470, Statutes of Nevada 1975, as last amended by
21 chapter 350, Statutes of Nevada 1987, at page 796, is hereby
22 amended to read as follows:

23 Sec. 9.190 Applicability. This article applies to all
24 employees of the City of Sparks, except:

- 25 1. Elected officers of the City;
26 2. The City Manager;
27 3. Persons in appointive positions ~~{-and}~~ *who are*
28 *appointed by the City Manager pursuant to section 1.080;*
29 4. Temporary employees ~~{-}~~ *; and*
30 5. *Officers and employees of the Municipal Court.*

31 **Sec. 9.** This act becomes effective upon passage and approval.

