



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

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August 7, 2014

OPINION NO. 2014-05

DISTRICT ATTORNEYS; OPEN MEETING LAW; PUBLIC BODIES: The Association does expend public funds because dues are assessed to each member and paid by the county where the member was elected; however this fact does not disturb our opinion that the Association is not a public body because the mere receipt of public money by any entity, unless the entity had been created by State or local government, does not constitute a public body within the meaning of the Open Meeting Law.

Steve Wolfson, Esq.  
Association President  
Nevada District Attorneys Association  
P.O. Box 552212  
Las Vegas, Nevada 89155-2212

Dear Mr. Wolfson:

You have requested that the Office of the Attorney General (Office) opine as to whether the Nevada District Attorneys Association (Association or NDAA) is subject to the Nevada Open Meeting Law.

## QUESTION

Is the Nevada District Attorneys Association subject to the Nevada Open Meeting Law, NRS Chapter 241?

## FACTS

The Nevada District Attorneys Association is a private, unincorporated, nonprofit association as defined in NRS 81.740. Seventeen elected Nevada District Attorneys constitute the voting membership. The Association is governed by a constitution and the bylaws, and it is funded by dues assessed on its members; it is authorized to exchange information with other members and to lobby the Legislature regarding matters of commonality among the members' jurisdiction. Three members appointed by the governing body of the NDAA serve on the Advising Council of Prosecuting Attorneys, which is a public body created by NRS 241A.040.

The Legislature did not create the Association, nor was it created by statute or pursuant to a statute by the Legislature for a specific purpose. The Association's purpose is expressed in its constitution and is directed by its bylaws.

## ANALYSIS

Public body is defined in NRS 241.015(4).<sup>1</sup> The Open Meeting Law is broadly interpreted by the Nevada Supreme Court (Court) so that citizens are not deprived of

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<sup>1</sup> Except as otherwise provided in NRS 241.016, "public body" means:

(a) Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue, including, but not limited to, any board, commission, committee, subcommittee or other subsidiary thereof and includes an educational foundation as defined in subsection 3 of NRS 388.750 and a university foundation as defined in subsection 3 of NRS 396.405, if the administrative, advisory, executive or legislative body is created by:

- (1) The Constitution of this State;
- (2) Any statute of this State;
- (3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;
- (4) The Nevada Administrative Code;
- (5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;
- (6) An executive order issued by the Governor; or

the opportunity to witness their government in action. The Court, citing an Attorney General's Opinion, said that "a statute promulgated for the public benefit such as a public meeting law should be liberally construed and broadly interpreted to promote openness in government." *Dewey v. The Redevelopment Agency of the City of Reno*, 119 Nev. 87, 94, 64 P.3d 1070, 1075 (2003), quoting Op. Nev. Att'y Gen. No. 85-19 (Dec. 17, 1985).

A public body is any administrative, advisory, executive, or legislative body of the state or local government supported in whole or in part by tax revenue, if it was created by one of seven statutory methods. NRS 241.015(4)(a). The Association is a legal entity which enjoys powers and perpetual existence as an unincorporated nonprofit association under authority of NRS 81.755, but it was not created by any one of the methods in NRS 241.015(4)(a). It is also not an executive body created by executive order of the Governor or by any one of the other methods in NRS 241.015(4)(b). Thus under the plain meaning of the statute, the Association is not a public body and is not subject to the Open Meeting Laws.

### CONCLUSION

The Nevada District Attorneys Association was not created by any method set forth in NRS 241.015(4)(a) or (b). It is a voluntary association of elected county District Attorneys. It is based on agreement and given certain powers and perpetual existence under NRS 81.755, as an unincorporated, nonprofit association.

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(7) A resolution or an action by the governing body of a political subdivision of this State;

(b) Any board, commission or committee consisting of at least two persons appointed by:

(1) The Governor or a public officer who is under the direction of the Governor, if the board, commission or committee has at least two members who are not employees of the Executive Department of the State Government;

(2) An entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee otherwise meets the definition of a public body pursuant to this subsection; or

(3) A public officer who is under the direction of an agency or other entity in the Executive Department of the State Government consisting of members appointed by the Governor, if the board, commission or committee has at least two members who are not employed by the public officer or entity; and

(c) A limited-purpose association that is created for a rural agricultural residential common-interest community as defined in subsection 6 of NRS 116.1201.

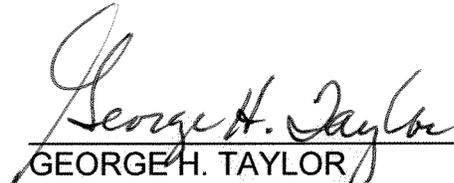
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Sincerely,

CATHERINE CORTEZ MASTO  
Attorney General

By:

  
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GHT:SG