



County of Santa Cruz

0241

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069
(831) 454-2200 FAX: (831) 454-3262 TDD: (831) 454-2123

JANET K. BEAUTZ
FIRST DISTRICT

WALTER J. SYMONS
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 2/1/00

January 20, 2000

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: PROPOSED PROCESS FOR APPOINTMENT OF COUNTY COUNSEL

Dear Members of the Board:

As the Board is aware, County Counsel Dwight Herr will be retiring at the end of April. The County Counsel works directly for the Board of Supervisors and is not a civil service appointee. Therefore, the Board of Supervisors will have full authority and responsibility for the selection of a new County Counsel.

I would recommend that the Board of Supervisors take the following actions to initiate moving through this very important task:

1. Announce that the Board of Supervisors will be considering both promotional candidates and outside candidates for the position.
2. Request that the Personnel Director develop a recruitment plan, budget, and time line for soliciting candidates for the position, and present this material to the Board of Supervisors for consideration on the February 15 agenda.
3. Request that County Counsel assist the Board of Supervisors with both the screening process and selection interviews of candidates, and that he recommend at least two other professionals well-acquainted with the duties of the position who could be invited to participate in both activities.

Sincerely,

MARDI WORMHOUDT, Chair
Board of Supervisors

MW:pmp

cc: Personnel Director
County Administrative Office
County Counsel

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Chapter 12

COUNTY COUNSEL

0242

Section

27640. Appointment by supervisors.
 2764 1. Term; removal; grounds; procedure.
 2764 1.1. Waiver of residence qualifications.
 27642. Civil duties.
 27643. Attorney for public administrator; employment of private counsel in certain cases; fees.
 27644. Assistants.
 27645. Duties and powers in civil matters.
 27646. Mental health proceedings.
 27647. Representation of judges.
 27648. Representation of judges; conflict of interest; recovery of attorney fees, costs and expenses.

Chapter 12 was added by Stats.1947, c. 424, p. 1174, § 1.

§ 27640. Appointment by supervisors

In any county a county counsel may be appointed by the board of supervisors.

(Added by Stats.1947, c. 424, p. 1174, § 1. Amended by Stats.1949, c. 45, p. 66, § 1; Stats.1955, c. 1302, p. 2371, § 1; Stats.1957, c. 1341, p. 2673, § 1.)

Historical Note

Derivation: Pol.C. § 4041.12a, added by Stats.1941, c. 618, p. 2075, § 2.

Library References

Counties ⇐63.
 C.J.S. Counties § 101.

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

Consolidation of offices 2
Construction and application 1
Payment for outside services 4
salary 3

County Civil Service Enabling Law. 26 Ops. Atty.Gen. 149.

2. Consolidation of offices

Since office of county counsel is appointive under this section and office of public administrator elective under § 24009, the duties of those offices may not be consolidated. 40 Ops. Atty.Gen. 138.

1. Construction and application

Where county counsel is appointed pursuant to county charter, the provisions of this chapter relating to county counsel do not apply. Board of Sup'rs of Los Angeles County v. Simpson (1951) 227 P.2d 14, 36 C.2d 671.

Appointment of county counsel by board of supervisors of county is governed by provisions of this section creating office of county counsel, and will not be subject to county civil service ordinance enacted pursuant to the

Since a clash of duties and loyalties may arise not only at the stage of counseling but at that of litigation, and since cities and counties are entitled to independent legal advice, offices of county counsel and city attorney are incompatible and, accordingly, same person should not be appointed to hold both offices at the same time. 38 Ops. Atty.Gen. 113.

Where duties of county counsel of Riverside County had been separated from those of district attorney for many years before election of incumbent district attorney, appointment by board of supervisors of district attorney as county counsel to fill both positions was not objectionable as attempt to consolidate offices in absence of statutory authority. 15 Ops.Atty.Gen. 1.

3. salary

Where duties performed by county counsel had been separated by those of district attorney of Riverside County long prior to time incumbent district attorney was elected and long prior to time legislature had fixed salary of district attorney for that county, and board of supervisors appointed district attorney to

act as county counsel also, district attorney could receive salary provided for that office as well, as salary fixed by board for county counsel without violating constitutional provision that compensation of county officer shall not be increased after election or during term of office. 15 Ops.Atty.Gen. 1.

0243

4. Payment for outside services

Where board of trustees of school district hired firm of attorneys to negotiate with federal agencies and functionaries relative to obtaining surplus land for school district and services could have been performed by non-lawyers, payment by school district for services of law firm was proper, even though county counsel had not first been asked to perform services. 17 Ops.Atty.Gen. 108.

§ 27641. Term; removal; grounds; procedure

The county counsel shall serve for four years from the time of his appointment and until his successor is appointed, subject to the following:

(a) He may be removed at any time by proceedings under Article 3 (commencing at Section 3060) of Chapter 7 of Division 4 of Title 1 of the Government Code.

(b) He may be removed at any time by the board of supervisors for neglect of duty, malfeasance or misconduct in office, or other good cause shown, upon written accusation to be filed with the board of supervisors, by a person not a member of the board, and heard by the board and sustained by a three-fifths vote of the board. When an accusation has been so filed with the board, the board may direct the district attorney to investigate and present the accusation or may employ private counsel for that purpose. All testimony before the board shall be under oath or affirmation administered by the board. The board is hereby vested with the power to compel the attendance of witnesses and the production of books, papers and testimony and shall make such processes available to the accused. A copy of the accusation shall be personally served upon the accused and he shall be given not less than 10 days' time in which to file a written answer to the accusation. If, after hearing, it appears to the satisfaction of the board that the accusation has been substantiated, the board shall so notify the accused by mail. Such notice shall specifically state the findings and judgment of the board, and the board shall thereupon forthwith remove the accused from office and shall immediately appoint his successor.

(Added by Stats.1947, c. 424, p. 1175, § 1. Amended by Stats.1959, c. 1389, p. 3667, § 1, eff. July 1, 1959.)

Historical Note

Derivation: Pol.C. § 4041.12a, added by Stats.1941, c. 618, p. 2075, § 2.