

IN THE SENATE

SENATE BILL NO. 1255

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO THE ATTORNEY GENERAL; AMENDING SECTION 31-2002, IDAHO CODE, TO
2 REVISE THE DUTIES OF THE ATTORNEY GENERAL REGARDING INVESTIGATIONS AND
3 ACTIONS AGAINST COUNTY ELECTED OFFICERS IN CERTAIN CRIMINAL LAW MATTERS
4 AND TO PROVIDE A CORRECT CODE REFERENCE.
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6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Section 31-2002, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 31-2002. ~~PRELIMINARY~~ INVESTIGATIONS AND ACTIONS AGAINST COUNTY
10 ELECTED OFFICERS -- DUTIES OF ATTORNEY GENERAL. (1) Notwithstanding any
11 provision of law to the contrary, the attorney general ~~shall~~ may conduct an
12 ~~preliminary~~ investigation of any allegation of a violation of state criminal
13 ~~law, civil or criminal,~~ against a county officer occupying an elective of-
14 fice for violation of state criminal law in his official capacity.

15 (2) Upon completion of the ~~preliminary~~ investigation, the attorney
16 general ~~may~~ shall:

17 (a) Issue a finding of no further action necessary;

18 (b) ~~Prescribe~~ Suggest training or other nonjudicial remedies; or

19 (c) ~~Issue a finding that further investigation or prosecution is war-~~
20 ~~ranted, provided that the attorney general shall refer a recommendation~~
21 ~~for further investigation or prosecution to the county prosecutor who~~
22 ~~shall seek appointment of a special prosecutor. If the attorney gen-~~
23 ~~eral issues a finding that further investigation or prosecution is war-~~
24 ~~ranted against a county prosecutor, the attorney general shall retain~~
25 ~~the matter and act as special prosecutor~~ Determine that further inves-
26 tigation or prosecution is warranted and retain the matter and act as
27 special prosecutor.

28 (3) In furtherance of the duty to conduct investigations set forth in
29 the provisions of this section, the attorney general shall have the author-
30 ity to issue subpoenas for the production of documents or tangible things
31 that may be relevant to such investigations.

32 (4) The provisions of this section shall not apply to any alleged viola-
33 tions of the open meetings law as codified in chapter 23, title ~~67~~ 74, Idaho
34 Code.

35 (5) For purposes of this section, a county officer occupying an elec-
36 tive office shall be deemed to have performed an act in his "official capac-
37 ity" when such act takes place while the officer is working or claims to be
38 working on behalf of his employer at his workplace or elsewhere, while the
39 officer is at his workplace whether or not he is working at the time, involves
40 the use of public property or equipment of any kind or involves the expendi-
41 ture of public funds.