

Assembly Bill No. 130—Committee on Elections,

Procedures, and Ethics

CHAPTER.....

AN ACT relating to elections; describing the categories of expenses that must be included in certain reports of expenses and expenditures; revising various provisions governing the forms for reporting campaign contributions, expenses and expenditures; limiting the prohibition against causing to be published certain false statements of fact made during a political campaign to certain false statements of fact made about a candidate; requiring the commission on ethics to make certain specific findings before the commission may determine that a person has violated the prohibition against causing to be published certain false statements of fact about a candidate; and providing other matters properly relating thereto.

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

Section 1. Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each report of expenses or expenditures required pursuant to NRS 294A.125, 294A.200, 294A.210, 294A.220 and 294A.280 must consist of a list of the expenses incurred or expenditures made during the periods for reporting. The list must state the category and amount of the expense or expenditure and the approximate date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

- (a) Office expenses;*
- (b) Expenses related to volunteers;*
- (c) Expenses related to travel;*
- (d) Expenses related to advertising;*
- (e) Expenses related to paid staff;*
- (f) Expenses related to consultants;*
- (g) Expenses related to polling;*
- (h) Expenses related to special events;*
- (i) Goods and services provided in kind for which money would otherwise have been paid; and*
- (j) Other miscellaneous expenses.*

Sec. 2. NRS 294A.120 is hereby amended to read as follows:

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than:

(a) Seven days before the primary election, for the period from 30 days before the regular session of the legislature after the last election for that office up to 12 days before the primary election;

(b) Seven days before the general election, whether or not the candidate won the primary election, for the period from 12 days before the primary election up to 12 days before the general election; and

(c) The 15th day of the second month after the general election, for the remaining period up to 30 days before the next regular session of the legislature,

~~{report the total amount of his}~~ *list each of the* campaign contributions *he receives during the period* on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

2. Except as otherwise provided in subsection 3, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination up to 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period up to the special election,

~~{report the total amount of his}~~ *list each of the* campaign contributions *he receives during the period* on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall ~~{report the total amount of his}~~ *list each of the* campaign contributions *he receives* on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury, 30 days after the special election, for the period from the filing of the notice of intent to circulate the petition for recall up to the special election.

4. Reports of campaign contributions must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail the report to that officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

5. Every county clerk who receives from candidates for legislative or judicial office, except the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to subsection 4 shall file a copy of each report with the secretary of state within 10 working days after he receives the report.

6. ~~{Each}~~ *The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the first reporting period .* ~~{must be separately identified with the name and address of the contributor and the date of the contribution, tabulated and reported on the form provided by the secretary of state.}~~ *The form designed and provided by the secretary of state for the reporting of contributions pursuant to this section must be designed to be used by a candidate to record in the form of a list each campaign contribution as he receives it.*

Sec. 3. NRS 294A.125 is hereby amended to read as follows:

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives

contributions in any year before the year in which the general election or general city election in which the candidate intends to seek election to public office is held, shall, not later than December 31 of:

(a) The year in which he receives contributions in excess of \$10,000, ~~[report the total contributions received.]~~ *list each of the contributions he receives during the period.*

(b) Each year after the year in which he received contributions in excess of \$10,000, until the year of the general election or general city election in which the candidate intends to seek election to public office is held, ~~[report]~~ *list each of* the contributions received and the expenditures made in that year.

2. The reports required by subsection 1 must be submitted on a form designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

3. ~~[Each]~~ *The name and address of the contributor and the date on which the contribution was received must be included on the list for each* contribution in excess of \$100 and contributions that a contributor has made cumulatively in excess of that amount . ~~[must be separately identified with the name and address of the contributor and the date of the contribution, tabulated and reported on the form provided by the secretary of state. Each expenditure in excess of \$100 and expenditures that the candidate made cumulatively in excess of that amount must be separately identified with the date of the expenditure, tabulated and reported on the form provided by the secretary of state.]~~ *The forms designed and provided by the secretary of state for the reporting of contributions and expenditures pursuant to this section must be designed to be used by a candidate to record in the form of a list each campaign contribution as he receives it and each expenditure as it is made.*

4. The report must be filed with the secretary of state.

Sec. 4. NRS 294A.140 is hereby amended to read as follows:

294A.140 1. Every person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party and committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates shall, not later than:

(a) Seven days before a primary election or primary city election, for the period from 30 days after the last election for that office to 12 days before the primary election or primary city election;

(b) Seven days before a general election or general city election, whether or not the candidate won the primary election or primary city election, for the period from 12 days before the primary election or primary city election to 12 days before the general election or general city election; and

(c) The 15th day of the second month after the general election or general city election, for the remaining period up to 30 days after the general election or general city election, ~~{report the total amount}~~ **list each** of **the** contributions received **during the period** on the form designed and provided by the secretary of state and shall sign the report under penalty of perjury.

2. The ~~{report of campaign contributions must identify}~~ **name and address of the contributor and the date on which the contribution was received must be included on the list for** each contribution in excess of \$100 ~~{Contributions}~~ **and contributions** which a contributor has made cumulatively in excess of \$100 since the beginning of the first reporting period . ~~{must be separately identified with the name and address of the contributor and the date of the contribution, tabulated and reported on the form designed and provided by the secretary of state.}~~ **The form designed and provided by the secretary of state for the reporting of contributions pursuant to this section must be designed to be used by the person, committee for political action, political party or committee sponsored by a political party to record in the form of a list each contribution as it is received.**

3. If the candidate is elected from one county, the reports must be filed with the county clerk of that county. If the candidate is elected from one city, the reports must be filed with the city clerk of that city. For all other candidates the reports must be filed with the secretary of state. A person or entity may file the report with the appropriate officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

Sec. 5. NRS 294A.150 is hereby amended to read as follows:

294A.150 1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at any election including any recall or special election shall, not later than:

(a) Seven days before a primary election or primary city election, for the period from 30 days after the last general election to 12 days before the primary election or primary city election;

(b) Seven days before a general election or general city election, for the period from 12 days before the primary election or primary city election to 12 days before the general election or general city election; and

(c) The 15th day of the second month after the general election or general city election, for the remaining period up to 30 days after the general election or general city election, ~~{report the total amount}~~ **list each** of **the** contributions received **during the period** on the form designed and provided by the secretary of state and signed by the person or a representative of the group under penalty of perjury.

2. ~~[Each]~~ *The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of \$100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the first reporting period . ~~[must be separately identified with the name and address of the contributor and the date of the contribution, tabulated and reported on the form provided by the secretary of state.]~~ The form designed and provided by the secretary of state for the reporting of contributions pursuant to this section must be designed to be used to record in the form of a list each contribution as it is received.*

3. If the question is submitted to the voters of only one county, the reports must be filed with the county clerk of that county. If the question is submitted to the voters of only one city, the reports must be filed with the city clerk of that city. Otherwise, the reports must be filed with the secretary of state. If the person or group of persons is advocating passage or defeat of a group of questions, the reports must be made to the officer appropriate for each question and must be itemized by question.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

Sec. 6. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than:

(a) Seven days before the primary election, for the period from 30 days before the regular session of the legislature after the last election for that office up to 12 days before the primary election;

(b) Seven days before the general election, whether or not the candidate won the primary election, for the period from 12 days before the primary election up to 12 days before the general election; and

(c) The 15th day of the second month after the general election, for the remaining period up to 30 days before the next regular session of the legislature,

~~[report his]~~ *list each of the* campaign expenses *he incurs during the period* on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

2. Except as otherwise provided in subsection 3, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination up to 12 days before the special election; and

(b) Sixty days after the special election, for the remaining period up to 30 days after the special election,

~~[report his]~~ *list each of the* campaign expenses *he incurs during the period* on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall ~~report his~~ *list the* campaign expenses *he incurs* on forms designed and provided by the secretary of state and signed by the candidate under penalty of perjury, 60 days after the special election, for the period from the filing of the notice of intent to circulate the petition for recall up to 30 days after the special election.

4. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail the report to that officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

5. County clerks who receive from candidates for legislative or judicial office, except the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to subsection 4 shall file a copy of each report with the secretary of state within 10 working days after he receives the report.

6. The forms designed and provided by the secretary of state for the reporting of campaign expenses pursuant to this section must be designed to be used by a candidate to record in the form of a list each campaign expense as he incurs it.

Sec. 7. NRS 294A.210 is hereby amended to read as follows:

294A.210 1. Every person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party or committee sponsored by a political party which makes an expenditure on behalf of a candidate or group of candidates shall, not later than:

(a) Seven days before a primary election or primary city election, for the period from 30 days after the last election for that office to 12 days before the primary election or primary city election;

(b) Seven days before a general election or general city election, whether or not the candidate won the primary election or primary city election, for the period from 12 days before the primary election or primary city election to 12 days before the general election or general city election; and

(c) The 15th day of the second month after a general election or general city election, for the remaining period up to 30 days after the general election or general city election,

~~report the expenditures~~ *list each expenditure* made *during the period* on behalf of a candidate or group of candidates in excess of \$100 on forms designed and provided by the secretary of state and signed by the person or a representative of the group under penalty of perjury. The report must also

include identification of expenditures which the person or group made cumulatively in excess of \$100 since the beginning of the first reporting period.

2. Expenditures made within the state or made elsewhere but for use within the state, including expenditures made outside the state for printing, television and radio broadcasting or other production of the media, must be included in the report.

3. If the candidate is elected from one county, the reports must be filed with the county clerk of that county. If the candidate is elected from one city, the reports must be filed with the city clerk of that city. Otherwise, the reports must be filed with the secretary of state. If an expenditure is made on behalf of a group of candidates, the reports must be made to the officer appropriate for each candidate and itemized by the candidate. A person may make his report to the appropriate officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

5. The forms designed and provided by the secretary of state for the reporting of expenditures pursuant to this section must be designed to be used by the person or representative of the group to record in the form of a list each expenditure as it is made.

Sec. 8. NRS 294A.220 is hereby amended to read as follows:

294A.220 1. Every person or group of persons organized formally or informally who advocates the passage or defeat of a question or group of questions on the ballot at any election including any recall or special election shall, not later than:

(a) Seven days before a primary election or primary city election, for the period from 30 days after the last general election to 12 days before the primary election or primary city election;

(b) Seven days before a general election or general city election, for the period from 12 days before the primary election or primary city election to 12 days before the general election or general city election; and

(c) The 15th day of the second month after the general election or general city election, for the remaining period up to 30 days after the general election or general city election,

~~report expenditures~~ ***list each expenditure*** made ***during the period*** on behalf of or against a question or group of questions on the ballot in excess of \$100 on the form designed and provided by the secretary of state and signed by the person or a representative of the group under penalty of perjury. The report must also include the identification of expenditures which the person or group made cumulatively in excess of \$100 since the beginning of the first reporting period.

2. Expenditures made within the state or made elsewhere but for use within the state, including expenditures made outside the state for printing, television and radio broadcasting or other production of the media, must be included in the report.

3. If the question is submitted to the voters of only one county, the reports must be filed with the county clerk of that county. If the question is submitted to the voters of only one city, the reports must be filed with the city clerk of that city. Otherwise, the reports must be filed with the secretary of state. If an expenditure is made on behalf of a group of questions, the reports must be made to the officer appropriate for each question and must be itemized by question. A person may make his report to the appropriate filing officer by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

4. Each county clerk or city clerk who receives a report pursuant to subsection 3 shall file a copy of the report with the secretary of state within 10 working days after he receives the report.

5. The form designed and provided by the secretary of state for the reporting of expenditures pursuant to this section must be designed to be used by the person or representative of the group to record in the form of a list each expenditure as it is made.

Sec. 9. NRS 294A.270 is hereby amended to read as follows:

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall up to 12 days before the special election; and

(b) Thirty days after the election, for the remaining period up to the election,

~~{report}~~ *list* each contribution received or made by the committee in excess of \$100 on a form provided by the secretary of state and signed under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, ~~{report}~~ *list* each contribution received or made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall up to the day the court determines that an election will not be held, ~~{report}~~ *list* each contribution received or made by the committee in excess of \$100.

4. Each report of contributions must be filed with the secretary of state. The committee may mail the report by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

5. ~~[Each]~~ *The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution, whether from or to a natural person, association or corporation, in excess of \$100 and contributions which a contributor or the committee has made cumulatively in excess of that amount since the beginning of the first reporting period . ~~[must be separately identified with the name and address of the contributor or person to whom the contribution was given and the date of the contribution, tabulated and reported on the form provided by the secretary of state.]~~ The form designed and provided by the secretary of state for the reporting of contributions pursuant to this section must be designed to be used by the committee to record in the form of a list each contribution as it is received or made.*

Sec. 10. NRS 294A.280 is hereby amended to read as follows:

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall up to 12 days before the special election; and

(b) Thirty days after the election, for the remaining period up to the election,

~~[report]~~ *list* each expenditure made by the committee in excess of \$100 on a form provided by the secretary of state and signed under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, ~~[report]~~ *list* each expenditure made by the committee in excess of \$100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall up to the day the court determines that an election will not be held, ~~[report]~~ *list* each expenditure made by the committee in excess of \$100.

4. The report must also include identification of expenditures which the committee for the recall of a public officer made cumulatively in excess of \$100 since the beginning of the first reporting period.

5. Each report of expenditures must be filed with the secretary of state. The committee may mail the report by certified mail. If certified mail is used, the date of mailing shall be deemed the date of filing.

6. *The form designed and provided by the secretary of state for the reporting of expenditures pursuant to this section must be designed to be used by a committee to record in the form of a list each expenditure as it is made.*

Sec. 11. NRS 294A.345 is hereby amended to read as follows:

294A.345 1. A person shall not, with actual malice and the intent to impede the success of the campaign of a candidate, ~~[cause]~~ *impede the*

success of the candidate by causing to be published a false statement of fact concerning the candidate, including, without limitation, statements concerning:

- (a) The education or training of the candidate.
- (b) The profession or occupation of the candidate.
- (c) Whether the candidate committed, was indicted for committing or was convicted of committing a felony or other crime involving moral turpitude, dishonesty or corruption.
- (d) Whether the candidate has received treatment for a mental illness.
- (e) Whether the candidate was disciplined while serving in the military or was dishonorably discharged from service in the military.
- (f) Whether another person endorses or opposes the candidate.
- (g) The record of voting of a candidate if he formerly served or currently serves as a public officer.

~~2. [A person shall not, with actual malice and the intent to impede the success of a campaign for the passage or defeat of a question on the ballot at any election, including any recall or special election, cause to be published a false statement of fact concerning the question on the ballot.~~

~~3.]~~ Any candidate who alleges that a false statement of fact concerning the candidate has been published in violation of subsection 1 ~~[, and any person or group of persons that advocates the passage or defeat of a question on the ballot at any election, is required to file a report pursuant to NRS 294A.150, and alleges that a false statement of fact has been published in violation of subsection 2.]~~ may file a request for an opinion with the commission on ethics pursuant to NRS 281.411 to 281.581, inclusive, and NRS 281.477. The commission shall give priority to such a request over all other matters pending with the commission.

~~[4.]~~ 3. A person who violates the provisions of this section is subject to a civil penalty that may be imposed by the commission on ethics pursuant to NRS 281.551.

~~[5.]~~ 4. As used in this section:

- (a) “Actual malice” means knowledge of the falsity of a statement or reckless disregard for whether a statement is true or false.
- (b) “Publish” means the act of printing, posting, broadcasting, mailing, speaking or otherwise disseminating.

Sec. 12. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office where the general city election is preceded by a primary city election shall file the reports in the manner required by NRS 294A.120, 294A.200 and 294A.350 for other offices not later than:

- (a) Seven days before the primary city election, for the period from 30 days after the last election for that office up to 12 days before the primary city election;
- (b) Seven days before the general city election, whether or not the candidate won the primary city election, for the period from 12 days before the primary city election up to 12 days before the general city election; and

(c) The 15th day of the second month after the general city election, for the remaining period up to 30 days after the general city election.

2. Every candidate for city office where there is no primary city election shall so file those reports:

(a) Seven days before the general city election, for the period from 30 days after the last election for that office up to 12 days before the general city election; and

(b) The 15th day of the second month after the general city election, for the remaining period up to 30 days after the general city election.

3. The city clerk shall design the form for each report a candidate for city office is required to file pursuant to NRS 294A.120 and 294A.200.

The form designed and provided by the city clerk for the reporting of campaign contributions and campaign expenses pursuant to this section must be designed to be used to record in the form of a list each campaign contribution as it is made and each campaign expense as it is incurred.

The city clerk shall submit the form to the secretary of state for approval.

The city clerk shall not use such a form until it is approved.

Sec. 13. NRS 294A.380 is hereby amended to read as follows:

294A.380 The secretary of state may adopt and promulgate regulations, prescribe forms *in accordance with the provisions of this chapter* and take such other actions as are necessary for the implementation and effective administration of the provisions of this chapter.

Sec. 14. NRS 281.477 is hereby amended to read as follows:

281.477 1. If a request for an opinion is filed with the commission pursuant to NRS 294A.345 or 294A.346, the commission shall conduct a public hearing on the request. Except as otherwise provided in subsection 6, the hearing must be held as expeditiously as possible, but not later than 15 days after the receipt of the request for the opinion.

2. Such a request must be accompanied by all evidence and arguments to be offered by the requester concerning the issues related to the request. Except as otherwise provided in this subsection, if such evidence and arguments are not submitted with the request, the commission may:

(a) Draw any conclusions it deems appropriate from the failure of the person or group of persons requesting the opinion to submit the evidence and arguments, other than a conclusion that a person alleged to have violated NRS 294A.345 acted with actual malice; and

(b) Decline to render an opinion.

The provisions of this subsection do not prohibit the commission from considering evidence or arguments presented by the requester after submission of the request for an opinion if the commission determines that consideration of such evidence or arguments is in the interest of justice.

3. The commission shall immediately notify any person alleged to have violated NRS 294A.345 or 294A.346 that such an opinion has been requested by the most expedient means possible. If notice is given orally by telephone or in any other manner, a second notice must be given in writing

~~no~~ **not** later than the next calendar day by facsimile machine or overnight mail. The notice must include the time and place of the commission's hearing on the matter.

4. A person notified pursuant to subsection 3 shall submit a response to the commission ~~no~~ **not** later than ~~at~~ the close of business on the second business day following the receipt of the notice. The response must be accompanied by any evidence concerning the issues related to the request that the person has in his possession or may obtain without undue financial hardship. Except as otherwise provided in this subsection, if such evidence is not submitted within that time, the commission may:

- (a) Draw any conclusions it deems appropriate from the failure of that person to submit the evidence and argument; and
- (b) Prohibit that person from responding and presenting evidence at the hearing.

The provisions of this subsection do not prohibit the commission from allowing that person to respond and present evidence or arguments, or both, after the close of business on the second business day if the commission determines that consideration of such evidence or arguments is in the interest of justice.

5. Except as otherwise provided in subsection 4, the commission shall allow any person alleged to have violated NRS 294A.345 or 294A.346 to:

- (a) Be represented by counsel; and
- (b) Hear the evidence presented to the commission and respond and present evidence on his own behalf.

6. At the request of:

- (a) The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346; or
- (b) The person alleged to have violated the provisions of NRS 294A.345 or 294A.346,

the commission may grant a continuance of a hearing held pursuant to the provisions of this section upon a showing of the existence of extraordinary circumstances that would prohibit the commission from rendering a fair and impartial opinion. A continuance may be granted for not more than 15 days. Not more than one continuance may be granted by the commission pursuant to this subsection.

7. The person or group of persons that filed the request for the opinion pursuant to NRS 294A.345 or 294A.346 has the burden of proving the elements of the offense, including that a person alleged to have violated NRS 294A.345 acted with actual malice. The existence of actual malice may not be presumed. A final opinion of the commission rendered pursuant to this section must be supported by clear and convincing evidence. ***In addition to the other requirements for issuing an opinion pursuant to this subsection, the commission shall not render a final opinion determining that a person has violated NRS 294A.345 unless the commission makes specific findings that:***

- (a) The person caused to be published a false statement of fact concerning a candidate;*
- (b) The person acted with actual malice in causing the false statement to be published;*
- (c) The person acted with the intent to impede the success of the campaign of the candidate in causing the false statement to be published; and*
- (d) The publication of the false statement did in fact impede the success of the campaign of the candidate.*

8. The commission shall render its opinion, or decline to render an opinion, as expeditiously as possible, but not later than 3 days after the date of the hearing. If additional time is required to determine the state of mind or the intent of the person alleged to have violated the provisions of NRS 294A.345 or 294A.346 or to determine the amount of any civil penalty that may be imposed pursuant to NRS 281.551, the commission may continue its jurisdiction to investigate those issues but shall render its opinion as to the truth or falsity of the statement made concerning the candidate or the ballot question or its opinion as to whether the person impeded the success of the campaign or induced another person to impede the success of the campaign. If the commission continues its jurisdiction pursuant to this subsection, it may render a final opinion after the time set forth in this subsection.

9. A final opinion of the commission rendered pursuant to this section is subject to judicial review pursuant to NRS 233B.130. The district court shall give a petition for judicial review of a final opinion of the commission priority over other civil matters that are not expressly given priority by law. Notwithstanding the provisions of NRS 233B.130, the court may provide for such expedited review of the final opinion, including shortened periods for filing documents, as it deems appropriate for the circumstances.

10. Each request for an opinion filed pursuant to NRS 294A.345 or 294A.346, each opinion rendered by the commission pursuant thereto and any motion, evidence or record of a hearing relating to the request are public and must be open to inspection pursuant to NRS 239.010.

11. For the purposes of NRS 41.032, the members of the commission and its employees shall be deemed to be exercising or performing a discretionary function or duty when taking any action related to the rendering of an opinion pursuant to this section.

12. Except as otherwise provided in this section, a meeting or hearing held by the commission to carry out the provisions of this section and the commission's deliberations on the information or evidence are not subject to any provision of chapter 241 of NRS.

13. As used in this section:

- (a) "Actual malice" has the meaning ascribed to it in NRS 294A.345.*
- (b) "Publish" has the meaning ascribed to it in NRS 294A.345.*

Sec. 15. NRS 281.551 is hereby amended to read as follows:

281.551 1. In addition to any other penalty provided by law, the commission may impose on a public officer or employee or former public officer or employee civil penalties not to exceed \$5,000 for a willful violation of this chapter.

2. In addition to other penalties provided by law, the commission may impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney's fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS

281.511, against a person who:

(a) Submits to the commission, in bad faith or with a vexatious purpose, an accusation or information that is false;

(b) Submits to the commission, in connection with a request for an opinion that the commission determines to be without merit, an accusation or information that is false; or

(c) Prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

3. If the commission finds that a violation of a provision of this chapter by a public officer or employee or former public officer or employee has resulted in the realization by another person of a financial benefit, the commission may, in addition to other penalties provided by law, require the current or former public officer or employee to pay a civil penalty of not more than twice the amount so realized.

4. Except as otherwise provided in this subsection, and in addition to any other penalty provided by law, the commission may impose on any person who violates any provision of NRS 294A.345 or 294A.346 a civil penalty not to exceed \$10,000. ~~##~~ *Except as otherwise provided in this subsection, if* the commission finds that a violation of NRS 294A.345 or 294A.346 occurred within 10 days before an election, including any recall or special election, the commission may impose on the person who committed such a violation a civil penalty not to exceed \$30,000. *The commission shall not impose a civil penalty for a violation of NRS 294A.345 unless the commission has made the specific findings required pursuant to subsection 7 of NRS 281.477.*

5. If the commission finds that a violation of this chapter has been committed by a public officer removable from office by impeachment only, it shall file a report with the appropriate person responsible for commencing impeachment proceedings as to its finding. The report must contain a statement of the facts alleged to constitute the violation.

6. An action taken by a public officer or employee or former public officer or employee relating to NRS 281.481, 281.491, 281.501 or 281.505 is not a willful violation of a provision of those sections if the public officer or employee:

(a) Relied in good faith upon the advice of the legal counsel retained by the public body which the public officer represents or by the employer of the public employee;

(b) Was unable, through no fault of his own, to obtain an opinion from the commission before the action was taken; and

(c) Took action that was not contrary to a prior opinion issued by the commission to the public officer or employee.

7. In addition to other penalties provided by law, a public employee who willfully violates a provision of NRS 281.481, 281.491, 281.501 or 281.505 is subject to disciplinary proceedings by his employer and must be referred for action in accordance to the applicable provisions governing his employment.

8. NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees.

9. The imposition of a civil penalty pursuant to subsections 1 to 4, inclusive, is a final decision for the purposes of judicial review.

10. In determining for the purposes of this section whether a person submitted an accusation or information in bad faith or with a vexatious purpose, the commission may consider various factors, including, without limitation:

(a) When the accusation or information was filed with or provided to the commission;

(b) Whether and, if applicable, in what manner the person who submitted the accusation or information publicly disseminated the accusation or information before the commission determined whether there was just and sufficient cause to render an opinion in the matter;

(c) Whether the accusation or information sets forth alleged facts or details that are misleading or deceptive; and

(d) Whether the accusation or information or the conduct of the person who submitted the accusation or information:

(1) Would be perceived as annoying or harassing by a reasonable person; or

(2) Demonstrates conscious disregard for the process and procedures established by the commission.

Sec. 16. NRS 294A.385 is hereby repealed.

Sec. 17. The amendatory provisions of this act do not apply to conduct that occurred before July 1, 1999, or to the jurisdiction, duties, powers or proceedings of the commission on ethics relating to such conduct.

Sec. 18. This act becomes effective on July 1, 1999.

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