

SENATE BILL NO. 466—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 22, 2001

Referred to Committee on Government Affairs

SUMMARY—Makes various changes regarding ethics in government. (BDR 23-716)

FISCAL NOTE: Effect on Local Government: No.
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 ethics in government; revising certain provisions regarding prohibited pecuniary interests and commitments of public officers and employees; specifying a period for the retention of certain documents filed with the commission; providing a maximum civil penalty for failure to file financial disclosure statements in a timely manner; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 281.230 is hereby amended to read as follows:
2 281.230 1. Except as otherwise provided in this section and NRS
3 218.605, the following persons shall not, in any manner, directly or
4 indirectly, receive any commission, personal profit or compensation of any
5 kind resulting from any contract or other *significant* transaction in which
6 the employing state, county, municipality, township, district or quasi-
7 municipal corporation is in any way *directly* interested or affected:
8 (a) State, county, municipal, district and township officers of the State
9 of Nevada;
10 (b) Deputies and employees of state, county, municipal, district and
11 township officers; and
12 (c) Officers and employees of quasi-municipal corporations.
13 2. A member of any board, commission or similar body who is
14 engaged in the profession, occupation or business regulated by the board,
15 commission or body may, in the ordinary course of his business, bid on or
16 enter into a contract with any governmental agency, except the board or
17 commission of which he is a member, if he has not taken part in
18 developing the contract plans or specifications and he will not be
19 personally involved in opening, considering or accepting offers.
20 3. A full- or part-time faculty member in the University and
21 Community College System of Nevada may bid on or enter into a contract



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1 with a governmental agency if he has not taken part in developing the
2 contract plans or specifications and he will not be personally involved in
3 opening, considering or accepting offers.

4 4. A public officer or employee, other than an officer or employee
5 described in subsection 2 or 3, may bid on or enter into a contract with a
6 governmental agency if the contracting process is controlled by rules of
7 open competitive bidding, the sources of supply are limited, he has not
8 taken part in developing the contract plans or specifications and he will not
9 be personally involved in opening, considering or accepting offers.

10 5. A person who violates any of the provisions of this section shall be
11 punished as provided in NRS 197.230 and:

12 (a) Where the commission, personal profit or compensation is \$250 or
13 more, for a category D felony as provided in NRS 193.130.

14 (b) Where the commission, personal profit or compensation is less than
15 \$250, for a misdemeanor.

16 6. A person who violates the provisions of this section shall pay any
17 commission, personal profit or compensation resulting from the contract or
18 transaction to the employing state, county, municipality, township, district
19 or quasi-municipal corporation as restitution.

20 **Sec. 2.** NRS 281.236 is hereby amended to read as follows:

21 281.236 1. A public utility or parent organization or subsidiary of a
22 public utility shall not employ a former member of the public utilities
23 commission of Nevada for 1 year after the termination of his service on the
24 commission.

25 2. A person who holds a license issued pursuant to chapter 463 or 464
26 of NRS or who is required to register with the Nevada gaming commission
27 pursuant to chapter 463 of NRS shall not employ a former member of the
28 state gaming control board or the Nevada gaming commission for 1 year
29 after the termination of the member's service on the board or commission.

30 3. In addition to the prohibitions set forth in subsections 1 and 2, a
31 business or industry whose activities are governed by regulations adopted
32 by a department, division or other agency of the executive branch of
33 government shall not, except as otherwise provided in subsection 4,
34 employ a former public officer or employee of the agency, except a clerical
35 employee, for 1 year after the termination of his service or period of
36 employment if:

37 (a) His principal duties included the formulation of policy contained in
38 the regulations governing the business or industry;

39 (b) During the immediately preceding year he directly performed
40 activities, or controlled or influenced an audit, decision, investigation or
41 other action, which significantly affected the business or industry which
42 might, but for this section, employ him; or

43 (c) As a result of his governmental service or employment, he possesses
44 knowledge of the trade secrets of a direct business competitor.

45 4. A public officer or employee may request the commission on ethics
46 to apply the relevant facts in his case to the provisions of subsection 3 and
47 determine whether relief from the strict application of the provisions is
48 proper. If the commission on ethics determines that relief from the strict
49 application of the provisions of subsection 3 is not contrary to:



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- 1 (a) The best interests of the public;
- 2 (b) The continued integrity of state government; and
- 3 (c) The code of ethical standards prescribed in NRS 281.481,
- 4 it may issue an ~~order~~ *opinion* to that effect and grant such relief. The
- 5 ~~decision~~ *opinion* of the commission on ethics in such a case is subject to
- 6 judicial review.

7 5. As used in this section, "regulation" has the meaning ascribed to it
8 in NRS 233B.038.

9 **Sec. 3.** NRS 281.4365 is hereby amended to read as follows:

10 281.4365 1. "Public officer" means a person elected or appointed to
11 a position which is established by the constitution of the State of Nevada, a
12 statute of this state or an ordinance of any of its counties or incorporated
13 cities and which involves the exercise of a public power, trust or duty. As
14 used in this section, "the exercise of a public power, trust or duty"
15 ~~includes~~ *means*:

- 16 (a) Actions taken in an official capacity which involve a substantial and
- 17 material exercise of administrative discretion in the formulation of public
- 18 policy;
- 19 (b) The expenditure of public money; and
- 20 (c) The enforcement of laws and rules of the state, a county or a city.
- 21 2. "Public officer" does not include:
- 22 (a) Any justice, judge or other officer of the court system;
- 23 (b) A commissioner of deeds;
- 24 (c) Any member of a board, commission or other body whose function
- 25 is advisory;
- 26 (d) Any member of a board of trustees for a general improvement
- 27 district or special district whose official duties do not include the
- 28 formulation of a budget for the district or the authorization of the
- 29 expenditure of the district's money; or
- 30 (e) A county health officer appointed pursuant to NRS 439.290.

31 **Sec. 4.** NRS 281.491 is hereby amended to read as follows:

32 281.491 In addition to the requirements of the code of ethical
33 standards:

34 1. A member of the executive branch or public employee of the
35 executive branch shall not accept compensation from any private person to
36 represent or counsel him on any issue pending before the agency in which
37 that officer or employee serves, if the agency makes decisions. Any such
38 officer or employee who leaves the service of the agency shall not, for 1
39 year after leaving the service of the agency, represent or counsel for
40 compensation a private person upon any issue which was under
41 consideration by the agency during his service. As used in this subsection,
42 "issue" includes a case, proceeding, application, contract or determination,
43 but does not include the proposal or consideration of legislative measures
44 or administrative regulations.

45 2. A member of the legislative branch, or a member of the executive
46 branch or public employee whose public service requires less than half of
47 his time, may represent or counsel a private person before an agency in
48 which he does not serve. Any other member of the executive branch or



1 public employee shall not represent a client for compensation before any
2 state agency of the executive or legislative branch of government.

3 3. Not later than January 10 of each year, any legislator or other public
4 officer who has, within the preceding year, represented or counseled a
5 private person for compensation before a state agency of the executive
6 branch shall disclose for each such representation or counseling during the
7 previous calendar year:

- 8 (a) The name of the client;
9 (b) The nature of the representation; and
10 (c) The name of the state agency.

11 The disclosure must be made in writing and filed with the commission ~~H~~,
12 *on a form prescribed by the commission. The commission shall retain a*
13 *disclosure filed pursuant to this subsection for 6 years after the date on*
14 *which the disclosure was filed.*

15 **Sec. 5.** NRS 281.552 is hereby amended to read as follows:

16 281.552 1. Every public officer shall acknowledge that he has
17 received, read and understands the statutory ethical standards. The
18 acknowledgment must be on a form prescribed by the commission and
19 must accompany the first statement of financial disclosure that the public
20 officer is required to file with the commission pursuant to NRS 281.561.

21 2. *The commission shall retain an acknowledgment filed pursuant to*
22 *this section for 6 years after the date on which the acknowledgment was*
23 *filed.*

24 3. Willful refusal to execute and file the acknowledgment required by
25 this section constitutes nonfeasance in office and is a ground for removal
26 pursuant to NRS 283.440.

27 **Sec. 6.** NRS 281.581 is hereby amended to read as follows:

28 281.581 1. A candidate or public or judicial officer who fails to file
29 his statement of financial disclosure in a timely manner pursuant to NRS
30 281.561 is subject to a civil penalty and payment of court costs and
31 attorney's fees. ~~The~~ *Except as otherwise provided in subsection 3, the*
32 *amount of the civil penalty is:*

33 (a) If the statement is filed not more than 7 days late, \$25 for each day
34 the statement is late.

35 (b) If the statement is filed more than 7 days late but not more than 15
36 days late, \$175 for the first 7 days, plus \$50 for each additional day the
37 statement is late.

38 (c) If the statement is filed more than 15 days late, \$575 for the first 15
39 days, plus \$100 for each additional day the statement is late.

40 2. The commission may, for good cause shown, waive or reduce the
41 civil penalty.

42 3. *The civil penalty imposed for a violation of this section must not*
43 *exceed the annual compensation for the office for which the statement*
44 *was filed.*

45 4. The civil penalty must be recovered in a civil action brought in the
46 name of the State of Nevada by the commission in a court of competent
47 jurisdiction and deposited with the state treasurer for credit to the state
48 general fund.



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- 1 ~~4.1~~ 5. If the commission waives a civil penalty pursuant to subsection
- 2 2, the commission shall:
- 3 (a) Create a record which sets forth that the civil penalty has been
- 4 waived and describes the circumstances that constitute the good cause
- 5 shown; and
- 6 (b) Ensure that the record created pursuant to paragraph (a) is available
- 7 for review by the general public.

