

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 on ethics; eliminating the requirement that certain public officials and judicial officers notify the commission in writing of their intent to use previously filed financial disclosure statements to fulfill certain other duties to file financial disclosure statements; 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



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1 developing the contract plans or specifications and he will not be
2 personally involved in opening, considering or accepting offers.

3 3. A full- or part-time faculty member in the University and
4 Community College System of Nevada may bid on or enter into a contract
5 with a governmental agency if he has not taken part in developing the
6 contract plans or specifications and he will not be personally involved in
7 opening, considering or accepting offers.

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

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

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

18 (b) Where the commission, personal profit or compensation is less than
19 \$250, for a misdemeanor.

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

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

25 281.236 1. A public utility or parent organization or subsidiary of a
26 public utility shall not employ a former member of the public utilities
27 commission of Nevada for 1 year after the termination of his service on the
28 commission.

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

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

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

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

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



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

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

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

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

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

21 (a) Actions taken in an official capacity which involve a substantial and
22 material exercise of administrative discretion in the formulation of public
23 policy;

24 (b) The expenditure of public money; and

25 (c) The enforcement of laws and rules of the state, a county or a city.

26 2. "Public officer" does not include:

27 (a) Any justice, judge or other officer of the court system;

28 (b) Any member of a board, commission or other body whose function
29 is advisory;

30 (c) Any member of a board of trustees for a general improvement
31 district or special district whose official duties do not include the
32 formulation of a budget for the district or the authorization of the
33 expenditure of the district's money; or

34 (d) A county health officer appointed pursuant to NRS 439.290.

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

36 281.491 In addition to the requirements of the code of ethical
37 standards:

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



1 2. A member of the legislative branch, or a member of the executive
2 branch or public employee whose public service requires less than half of
3 his time, may represent or counsel a private person before an agency in
4 which he does not serve. Any other member of the executive branch or
5 public employee shall not represent a client for compensation before any
6 state agency of the executive or legislative branch of government.

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

- 12 (a) The name of the client;
13 (b) The nature of the representation; and
14 (c) The name of the state agency.

15 The disclosure must be made in writing and filed with the commission **H**,
16 *on a form prescribed by the commission. The commission shall retain a*
17 *disclosure filed pursuant to this subsection for 6 years after the date on*
18 *which the disclosure was filed.*

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

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

25 **2.** *The commission shall retain an acknowledgment filed pursuant to*
26 *this section for 6 years after the date on which the acknowledgment was*
27 *filed.*

28 **3.** Willful refusal to execute and file the acknowledgment required by
29 this section constitutes nonfeasance in office and is a ground for removal
30 pursuant to NRS 283.440.

31 **Sec. 6.** NRS 281.561 is hereby amended to read as follows:

32 281.561 **1.** Except as otherwise provided in subsection 2 or 3, if a
33 candidate for public or judicial office or a public or judicial officer is
34 entitled to receive compensation for serving in the office in question, he
35 shall file with the commission, and with the officer with whom declarations
36 of candidacy for the office in question are filed, a statement of financial
37 disclosure, as follows:

38 (a) A candidate for nomination, election or reelection shall file a
39 statement of financial disclosure no later than the 10th day after the last
40 day to qualify as a candidate for the office.

41 (b) A public or judicial officer appointed to fill the unexpired term of an
42 elected public or judicial officer shall file a statement of financial
43 disclosure within 30 days after his appointment.

44 (c) Every public or judicial officer, whether appointed or elected, shall
45 file a statement of financial disclosure on or before March 31 of each year
46 of the term, including the year the term expires.

47 (d) A public or judicial officer who leaves office on a date other than
48 the expiration of his term or anniversary of his appointment or election,



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1 shall file a statement of financial disclosure within 60 days after leaving
2 office.

3 2. A statement filed pursuant to one of the paragraphs of subsection 1
4 may be used to satisfy the requirements of another paragraph of subsection
5 1 if the initial statement was filed not more than 3 months before the other
6 statement is required to be filed. ~~¶The public or judicial officer shall notify~~
7 ~~the commission in writing of his intention to use the previously filed~~
8 ~~statement to fulfill the present requirement.~~

9 3. If a person is serving in a public or judicial office for which he is
10 required to file a statement pursuant to subsection 1, he may use the
11 statement he files for that initial office to satisfy the requirements of
12 subsection 1 for every other public or judicial office in which he is also
13 serving. ~~¶The person shall notify the commission in writing of his intention~~
14 ~~to use the statement for the initial office to fulfill the requirements of~~
15 ~~subsection 1 for every other office.~~

16 4. A person may satisfy the requirements of subsection 1 by filing with
17 the commission a copy of a statement of financial disclosure that was filed
18 pursuant to the requirements of a specialized or local ethics committee if
19 the form of the statement has been approved by the commission.

20 **Sec. 7.** NRS 281.581 is hereby amended to read as follows:

21 281.581 1. A candidate or public or judicial officer who fails to file
22 his statement of financial disclosure in a timely manner pursuant to NRS
23 281.561 is subject to a civil penalty and payment of court costs and
24 attorney's fees. ~~¶The~~ *Except as otherwise provided in subsection 3, the*
25 amount of the civil penalty is:

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

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

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

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

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

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

42 ~~¶4-~~ 5. If the commission waives a civil penalty pursuant to subsection
43 2, the commission shall:

44 (a) Create a record which sets forth that the civil penalty has been
45 waived and describes the circumstances that constitute the good cause
46 shown; and

47 (b) Ensure that the record created pursuant to paragraph (a) is available
48 for review by the general public.



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- 1 **Sec. 8.** 1. This section and sections 1, 2 and 4 to 7, inclusive, of this
2 act become effective on October 1, 2001.
3 2. Section 3 of this act becomes effective at 12:01 a.m. on October 1,
4 2001.

