

SENATE BILL NO. 96—COMMITTEE ON COMMERCE AND LABOR

FEBRUARY 9, 2001

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions relating to disclosure of improper governmental action. (BDR 23-450)

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 state government; authorizing certain state officers and employees to file a complaint with a hearing officer of the department of personnel if another state officer or employee uses or attempts to use official authority or influence to interfere with or prevent the disclosure of improper governmental action; requiring the hearing officer to conduct a hearing to determine whether the officer or employee has used official authority or influence for such purpose; requiring the hearing officer to file his decision with certain persons; 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 281.611 is hereby amended to read as follows:  
2     281.611 As used in NRS 281.611 to 281.671, inclusive, unless the  
3     context otherwise requires:  
4     1. *“Disclose” or “disclosure” includes, without limitation, the*  
5     *making of any communication, not expressly prohibited by law, by a state*  
6     *officer or employee to any other person at any time in a manner which*  
7     *clearly communicates to the recipient of the communication that the*  
8     *officer or employee is not expressing the policy or position of his*  
9     *employer.*  
10    2. “Improper governmental action” means any action taken by a state  
11    officer or employee in the performance of his official duties, whether or  
12    not the action is within the scope of his employment, which is:  
13    (a) In violation of any state law or regulation;  
14    (b) An abuse of authority;  
15    (c) Of substantial and specific danger to the public health or safety; or  
16    (d) A gross waste of public money.  
17    ~~12-1~~ 3. *“Personnel commission” means the commission created*  
18    *pursuant to NRS 284.030.*



1 4. "State employee" means any person who performs public duties  
2 under the direction and control of a state officer for compensation paid by  
3 or through the state.

4 ~~13-1~~ 5. "State officer" means a person elected or appointed to a  
5 position with the state which involves the exercise of a state power, trust or  
6 duty, including:

7 (a) Actions taken in an official capacity which involve a substantial and  
8 material exercise of administrative discretion in the formulation of state  
9 policy;

10 (b) The expenditure of state money; and

11 (c) The enforcement of laws and regulations of the state.

12 **Sec. 2.** NRS 281.631 is hereby amended to read as follows:

13 281.631 1. A state officer or employee shall not directly or indirectly  
14 use or attempt to use his official authority or influence to intimidate,  
15 threaten, coerce, command, influence or attempt to intimidate, threaten,  
16 coerce, command or influence another state officer or employee in an effort  
17 to interfere with or prevent the disclosure of information concerning  
18 improper governmental action.

19 2. ~~For the purposes of this section, use of "official authority or~~  
20 ~~influence" includes taking, directing others to take, recommending,~~  
21 ~~processing or approving any personnel action such as an appointment,~~  
22 ~~promotion, transfer, assignment, reassignment, reinstatement, restoration,~~  
23 ~~reemployment, evaluation or other disciplinary action.~~ *If a state officer or*  
24 *employee uses or attempts to use his official authority or influence in a*  
25 *manner prohibited by subsection 1, the state officer or employee against*  
26 *whom the authority or influence is used in such a manner may file a*  
27 *written complaint with a hearing officer of the department of personnel*  
28 *for a determination of whether the provisions of subsection 1 have been*  
29 *violated. The written complaint must be accompanied by a statement that*  
30 *sets forth with particularity the facts and circumstances of the action that*  
31 *was taken which allegedly interfered with or prevented the disclosure of*  
32 *information concerning improper governmental action.*

33 3. *Within 20 working days after receiving a complaint that complies*  
34 *with the requirements of subsection 2, the hearing officer shall conduct a*  
35 *hearing to determine whether the provisions of subsection 1 have been*  
36 *violated. The hearing must be conducted in accordance with the*  
37 *procedures set forth in NRS 284.390 to 284.405, inclusive, and any*  
38 *procedures adopted by the personnel commission pursuant to subsection*  
39 *5.*

40 4. *If the hearing officer decides that a violation of subsection 1*  
41 *occurred, he shall issue an order directing the proper person to rescind*  
42 *the action constituting the violation of subsection 1 and to desist and*  
43 *refrain from engaging in such action in the future. The hearing officer*  
44 *shall file a copy of his decision with the governor or any other elected*  
45 *state officer who is responsible for the actions of that person.*

46 5. *The personnel commission may adopt rules of procedure for*  
47 *conducting a hearing pursuant to this section that are not inconsistent*  
48 *with the procedures set forth in NRS 284.390 to 284.405, inclusive.*



1     **Sec. 3.**   This act becomes effective on July 1, 2001.

