
ASSEMBLY BILL NO. 530—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF CLARK COUNTY)

MARCH 29, 2005

Referred to Committee on Elections, Procedures, Ethics,
and Constitutional Amendments

SUMMARY—Makes various changes regarding ethics in
government. (BDR 23-325)

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 the definition of “willful violation”; authorizing the Commission on Ethics to investigate and take appropriate action under certain circumstances regarding certain alleged violations of ethical standards adopted by a county or city; prohibiting a public officer from accepting gifts under certain circumstances; revising the provisions governing abstention and disclosure relating to conflicts of interest; eliminating the circumstances under which a violation of the ethical provisions may be found not to be willful; revising the requirements relating to the reporting of gifts by a public officer on a statement of financial disclosure; 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 281.4375 is hereby amended to read as
2 follows:
3 281.4375 “Willful ” ~~[violation]~~ means the public officer or
4 employee knew or reasonably should have known ~~[that]~~ *the*
5 *consequences of* his conduct ~~[violated this chapter.]~~ *and his*
6 *conduct was not the result of coercion.*



1 **Sec. 2.** NRS 281.465 is hereby amended to read as follows:

2 281.465 1. The Commission has jurisdiction to investigate
3 and take appropriate action regarding an alleged violation of:

4 (a) ~~[This]~~ *Except as otherwise provided in subsection 3, this*
5 chapter by a public officer or employee or former public officer or
6 employee in any proceeding commenced by:

7 (1) The filing of a request for an opinion with the
8 Commission; or

9 (2) The Commission on its own motion.

10 (b) NRS 294A.345 or 294A.346 in any proceeding commenced
11 by the filing of a request for an opinion pursuant thereto.

12 (c) *Ethical standards adopted by a governing body of a county*
13 *or an incorporated city pursuant to NRS 281.541 by an elected*
14 *public officer of the county or city, upon the filing of a request for*
15 *an opinion by the governing body, if the Commission:*

16 (1) *Determines that the ethical standards adopted by the*
17 *governing body do not conflict with, and are more restrictive than,*
18 *the provisions of this chapter; and*

19 (2) *Agrees to investigate and take appropriate action.*

20 2. The provisions of paragraph (a) of subsection 1 apply to a
21 public officer or employee who:

22 (a) Currently holds public office or is publicly employed at the
23 commencement of proceedings against him.

24 (b) Resigns or otherwise leaves his public office or employment:

25 (1) After the commencement of proceedings against him; or

26 (2) Within 1 year after the alleged violation or reasonable
27 discovery of the alleged violation.

28 3. *If the Commission investigates an alleged violation of the*
29 *ethical standards of a county or city by an elected public officer*
30 *pursuant to paragraph (c) of subsection 1, the Commission:*

31 (a) *May not investigate the alleged violation by the elected*
32 *public officer to determine whether the elected public officer*
33 *violated any provision of this chapter; and*

34 (b) *May impose any civil penalty authorized pursuant to NRS*
35 *281.551 upon the elected public officer if the Commission finds a*
36 *violation of the ethical standards of the county or city.*

37 **Sec. 3.** NRS 281.481 is hereby amended to read as follows:

38 281.481 A code of ethical standards is hereby established to
39 govern the conduct of public officers and employees:

40 1. A public officer or employee shall not seek or accept any
41 gift, service, favor, employment, engagement, emolument or
42 economic opportunity which would tend improperly to influence a
43 reasonable person in his position to depart from the faithful and
44 impartial discharge of his public duties.



2. A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection ~~181~~ 9 of NRS 281.501.

(b) "Unwarranted" means without justification or adequate reason.

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and any private business in which he has a significant pecuniary interest.

4. A public officer or employee shall not accept any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

6. A public officer or employee shall not suppress any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or other facility to benefit his personal or financial interest. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of his public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or



(c) The use of telephones or other means of communication if there is not a special charge for that use.

➡ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

8. A member of the Legislature shall not:

(a) Use governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person. This paragraph does not prohibit:

(1) A limited use of state property and resources for personal purposes if:

(I) The use does not interfere with the performance of his public duties;

(II) The cost or value related to the use is nominal; and

(III) The use does not create the appearance of impropriety;

(2) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(3) The use of telephones or other means of communication if there is not a special charge for that use.

(b) Require or authorize a legislative employee, while on duty, to perform personal services or assist in a private activity, except:

(1) In unusual and infrequent situations where the employee's service is reasonably necessary to permit the Legislator or legislative employee to perform his official duties; or

(2) Where such service has otherwise been established as legislative policy.

9. A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.

10. A public officer or employee shall not seek other employment or contracts through the use of his official position.

11. A public officer shall not accept gifts in excess of an aggregate value of \$50 from any donor unless he can demonstrate that the gifts were not offered to him because of his position as a public officer.

Sec. 4. NRS 281.501 is hereby amended to read as follows:

281.501 1. Except as otherwise provided in subsection 2, 3 or 4, a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to



1 any other member of the general business, profession, occupation or
2 group.

3 2. Except as otherwise provided in subsection 3, in addition to
4 the requirements of the code of ethical standards, a public officer
5 shall not vote upon , ~~for~~ advocate the passage or failure of ~~[-but~~
6 ~~may]~~ or otherwise participate in the consideration of ~~[-]~~ a matter
7 with respect to which the independence of judgment of a reasonable
8 person in his situation would be materially affected by:

9 (a) His acceptance of a gift or loan;

10 (b) His pecuniary interest; or

11 (c) His commitment in a private capacity to the interests of
12 others.

13 ➔ It must be presumed that the independence of judgment of a
14 reasonable person would not be materially affected by his pecuniary
15 interest or his commitment in a private capacity to the interests of
16 others where the resulting benefit or detriment accruing to him or to
17 the other persons whose interests to which the member is committed
18 in a private capacity is not greater than that accruing to any other
19 member of the general business, profession, occupation or group.
20 The presumption set forth in this subsection does not affect the
21 applicability of the requirements set forth in subsection 4 relating to
22 the disclosure of the pecuniary interest or commitment in a private
23 capacity to the interests of others.

24 3. In a county whose population is 400,000 or more, a member
25 of a county or city planning commission shall not vote upon , ~~for~~
26 advocate the passage or failure of ~~[-but-may]~~ or otherwise
27 participate in the consideration of ~~[-]~~ a matter with respect to which
28 the independence of judgment of a reasonable person in his situation
29 would be materially affected by:

30 (a) His acceptance of a gift or loan;

31 (b) His direct pecuniary interest; or

32 (c) His commitment to a member of his household or a person
33 who is related to him by blood, adoption or marriage within the third
34 degree of consanguinity or affinity.

35 ➔ It must be presumed that the independence of judgment of a
36 reasonable person would not be materially affected by his direct
37 pecuniary interest or his commitment described in paragraph (c)
38 where the resulting benefit or detriment accruing to him or to the
39 other persons whose interests to which the member is committed is
40 not greater than that accruing to any other member of the general
41 business, profession, occupation or group. The presumption set forth
42 in this subsection does not affect the applicability of the
43 requirements set forth in subsection 4 relating to the disclosure of
44 the direct pecuniary interest or commitment.



1 4. A public officer or employee shall not approve, disapprove,
2 vote, abstain from voting or otherwise act upon any matter:

3 (a) Regarding which he has accepted a gift or loan;

4 (b) Which would reasonably be affected by his commitment in a
5 private capacity to the interest of others; or

6 (c) In which he has a pecuniary interest,

7 without disclosing sufficient information concerning the gift,
8 loan, commitment or interest to inform the public of the potential
9 effect of the action or abstention upon the person who provided the
10 gift or loan, upon the person to whom he has a commitment, or upon
11 his interest. Except as otherwise provided in subsection 6, such a
12 disclosure must be made at the time the matter is considered. If the
13 officer or employee is a member of a body which makes decisions,
14 he shall make the disclosure in public to the Chairman and other
15 members of the body. If the officer or employee is not a member of
16 such a body and holds an appointive office, he shall make the
17 disclosure to the supervisory head of his organization or, if he holds
18 an elective office, to the general public in the area from which he is
19 elected. This subsection does not require a public officer to disclose
20 any campaign contributions that the public officer reported pursuant
21 to NRS 294A.120 or 294A.125 in a timely manner.

22 5. Except as otherwise provided in NRS 241.0355, if a public
23 officer declares to the body or committee in which the vote is to be
24 taken that he will abstain from voting because of the requirements of
25 this section, the necessary quorum to act upon and the number of
26 votes necessary to act upon the matter, as fixed by any statute,
27 ordinance or rule, is reduced as though the member abstaining were
28 not a member of the body or committee.

29 6. After a member of the Legislature makes a disclosure
30 pursuant to subsection 4, he may file with the Director of the
31 Legislative Counsel Bureau a written statement of his disclosure.
32 The written statement must designate the matter to which the
33 disclosure applies. After a Legislator files a written statement
34 pursuant to this subsection, he is not required to disclose orally his
35 interest when the matter is further considered by the Legislature or
36 any committee thereof. A written statement of disclosure is a public
37 record and must be made available for inspection by the public
38 during the regular office hours of the Legislative Counsel Bureau.

39 7. *If a public officer or employee is in doubt as to whether a*
40 *commitment in a private capacity to the interests of others exists*
41 *with respect to a matter, the public officer or employee shall:*

42 (a) *Make a disclosure regarding the commitment that complies*
43 *with the requirements of subsection 4; and*

44 (b) *Abstain from voting on and refrain from advocating the*
45 *passage or failure of or otherwise participating in the*



1 *consideration of the matter if the independence of judgment of a*
2 *reasonable person in his situation would be materially affected by*
3 *the commitment.*

4 8. The provisions of this section do not, under any
5 circumstances:

6 (a) Prohibit a member of the legislative branch from requesting
7 or introducing a legislative measure; or

8 (b) Require a member of the legislative branch to take any
9 particular action before or while requesting or introducing a
10 legislative measure.

11 ~~8.~~ 9. As used in this section, "commitment in a private
12 capacity to the interests of others" means ~~a~~ :

13 (a) A commitment to a person:

14 ~~(a)~~ (1) Who is a member of his household;

15 ~~(b)~~ (2) Who is related to him by blood, adoption or
16 marriage within the third degree of consanguinity or affinity;

17 ~~(c)~~ (3) Who employs him or a member of his household;

18 ~~(d)~~ (4) With whom he has a substantial and continuing
19 business relationship; or

20 ~~(e)~~ (b) Any other commitment or relationship that is
21 substantially similar to a commitment or relationship described in
22 ~~this subsection.~~ *paragraph (a), including, without limitation:*

23 (1) *The commitment or relationship between donors and*
24 *donees and between debtors and creditors;*

25 (2) *Legal or fiduciary arrangements;*

26 (3) *Business investment arrangements; or*

27 (4) *Consulting arrangements.*

28 **Sec. 5.** NRS 281.551 is hereby amended to read as follows:

29 281.551 1. In addition to any other penalty provided by law,
30 the Commission may impose on a public officer or employee or
31 former public officer or employee civil penalties:

32 (a) Not to exceed \$5,000 for a first willful violation of this
33 chapter;

34 (b) Not to exceed \$10,000 for a separate act or event that
35 constitutes a second willful violation of this chapter; and

36 (c) Not to exceed \$25,000 for a separate act or event that
37 constitutes a third willful violation of this chapter.

38 2. In addition to other penalties provided by law, the
39 Commission may impose a civil penalty not to exceed \$5,000 and
40 assess an amount equal to the amount of attorney's fees and costs
41 actually and reasonably incurred by the person about whom an
42 opinion was requested pursuant to NRS 281.511, against a person
43 who prevents, interferes with or attempts to prevent or interfere with
44 the discovery or investigation of a violation of this chapter.



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

8 4. In addition to any other penalty provided by law, by an
9 affirmative vote of two-thirds of the Commission, the Commission
10 may impose on any person who violates any provision of NRS
11 294A.345 or 294A.346 a civil penalty not to exceed \$5,000. The
12 Commission shall not impose a civil penalty for a violation of NRS
13 294A.345 unless the Commission has made the specific findings
14 required pursuant to subsection 7 of NRS 281.477.

15 5. If the Commission finds that:

16 (a) A willful violation of this chapter has been committed by a
17 public officer removable from office by impeachment only, the
18 Commission shall file a report with the appropriate person
19 responsible for commencing impeachment proceedings as to its
20 finding. The report must contain a statement of the facts alleged to
21 constitute the violation.

22 (b) A willful violation of this chapter has been committed by a
23 public officer removable from office pursuant to NRS 283.440, the
24 Commission may file a proceeding in the appropriate court for
25 removal of the officer.

26 (c) Three or more willful violations have been committed by a
27 public officer removable from office pursuant to NRS 283.440, the
28 Commission shall file a proceeding in the appropriate court for
29 removal of the officer.

30 6. ~~{An action taken by a public officer or employee or former~~
31 ~~public officer or employee relating to NRS 281.481, 281.491,~~
32 ~~281.501 or 281.505 is not a willful violation of a provision of those~~
33 ~~sections if the public officer or employee:~~

34 ~~—(a) Relied in good faith upon the advice of the legal counsel~~
35 ~~retained by the public body which the public officer represents or by~~
36 ~~the employer of the public employee or upon the manual published~~
37 ~~by the Commission pursuant to NRS 281.471;~~

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

40 ~~—(c) Took action that was not contrary to a prior published~~
41 ~~opinion issued by the Commission.~~

42 ~~7.]~~ In addition to other penalties provided by law, a public
43 employee who willfully violates a provision of NRS 281.481,
44 281.491, 281.501 or 281.505 is subject to disciplinary proceedings



1 by his employer and must be referred for action in accordance to the
2 applicable provisions governing his employment.

3 ~~[8-]~~ 7. NRS 281.481 to 281.541, inclusive, do not abrogate or
4 decrease the effect of the provisions of the Nevada Revised Statutes
5 which define crimes or prescribe punishments with respect to the
6 conduct of public officers or employees. If the Commission finds
7 that a public officer or employee has committed a willful violation
8 of this chapter which it believes may also constitute a criminal
9 offense, the Commission shall refer the matter to the Attorney
10 General or the district attorney, as appropriate, for a determination
11 of whether a crime has been committed that warrants prosecution.

12 ~~[9-]~~ 8. The imposition of a civil penalty pursuant to
13 subsections 1 to 4, inclusive, is a final decision for the purposes of
14 judicial review.

15 ~~[10-]~~ 9. A finding by the Commission that a public officer or
16 employee has violated any provision of this chapter must be
17 supported by a preponderance of the evidence unless a greater
18 burden is otherwise prescribed by law.

19 **Sec. 6.** NRS 281.571 is hereby amended to read as follows:

20 281.571 1. Statements of financial disclosure, as approved
21 pursuant to NRS 281.541 or in such form as the Commission
22 otherwise prescribes, must contain the following information
23 concerning the candidate for public office or public officer:

24 (a) His length of residence in the State of Nevada and the district
25 in which he is registered to vote.

26 (b) Each source of his income, or that of any member of his
27 household who is 18 years of age or older. No listing of individual
28 clients, customers or patients is required, but if that is the case, a
29 general source such as "professional services" must be disclosed.

30 (c) A list of the specific location and particular use of real estate,
31 other than a personal residence:

32 (1) In which he or a member of his household has a legal or
33 beneficial interest;

34 (2) Whose fair market value is \$2,500 or more; and

35 (3) That is located in this State or an adjacent state.

36 (d) The name of each creditor to whom he or a member of his
37 household owes \$5,000 or more, except for:

38 (1) A debt secured by a mortgage or deed of trust of real
39 property which is not required to be listed pursuant to paragraph (c);
40 and

41 (2) A debt for which a security interest in a motor vehicle for
42 personal use was retained by the seller.

43 (e) If the candidate for public office ~~[or public officer]~~ has
44 received gifts in excess of an aggregate value of \$200 from a donor



1 during the preceding taxable year, a list of all such gifts, including
2 the identity of the donor and value of each gift, except:

3 (1) A gift received from a person who is related to the
4 candidate for public office ~~[or public officer]~~ within the third degree
5 of consanguinity or affinity.

6 (2) Ceremonial gifts received for a birthday, wedding,
7 anniversary, holiday or other ceremonial occasion if the donor does
8 not have a substantial interest in the legislative, administrative or
9 political action of the candidate for public office. ~~[or public officer.]~~

10 (f) *If the public officer has received any gifts during the*
11 *preceding taxable year, a list of all such gifts, including the*
12 *identity of the donor, the value of the gift and, if the gift had a*
13 *value of more than \$50, proof that the gift was not offered because*
14 *of the position of the public officer, except:*

15 (1) *A gift received from a person who is related to the*
16 *public officer within the third degree of consanguinity or affinity.*

17 (2) *Ceremonial gifts received for a birthday, wedding,*
18 *anniversary, holiday or other ceremonial occasion if the donor*
19 *does not have a substantial interest in the legislative,*
20 *administrative or political action of the public officer.*

21 (3) *Meals.*

22 (4) *Invitations to nonprofit fundraising events that are*
23 *sponsored by public entities.*

24 (g) A list of each business entity with which he or a member of
25 his household is involved as a trustee, beneficiary of a trust,
26 director, officer, owner in whole or in part, limited or general
27 partner, or holder of a class of stock or security representing
28 1 percent or more of the total outstanding stock or securities issued
29 by the business entity.

30 ~~[(g)]~~ (h) A list of all public offices presently held by him for
31 which this statement of financial disclosure is required.

32 2. The Commission shall distribute or cause to be distributed
33 the forms required for such a statement to each candidate for public
34 office and public officer who is required to file one. The
35 Commission is not responsible for the costs of producing or
36 distributing a form for filing statements of financial disclosure
37 which is prescribed pursuant to subsection 1 of NRS 281.541.

38 3. As used in this section:

39 (a) "Business entity" means an organization or enterprise
40 operated for economic gain, including a proprietorship, partnership,
41 firm, business, trust, joint venture, syndicate, corporation or
42 association.

43 (b) "Household" includes:

44 (1) The spouse of a candidate for public office or public
45 officer;



1 (2) A person who does not live in the same home or
2 dwelling, but who is dependent on and receiving substantial support
3 from the candidate for public office or public officer; and

4 (3) A person who lived in the home or dwelling of the
5 candidate for public office or public officer for 6 months or more in
6 the year immediately preceding the year in which the candidate for
7 public office or public officer files the statement of financial
8 disclosure.

9 **Sec. 7.** This act becomes effective on July 1, 2005.



