

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; requiring certain public officers to attend a course on ethics in government; clarifying the circumstances under which a violation of the ethical provisions may be found not to be willful; authorizing a specialized or local ethics committee of a county or an incorporated city to prohibit certain former public officers from lobbying; making an appropriation; 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 281 of NRS is hereby amended by adding thereto a new section to read as follows:

Each newly elected or appointed public officer who is required to file a statement of financial disclosure pursuant to NRS 281.541, 281.559 or 281.561 shall, within 9 months after his initial election or appointment to his office, attend a course on ethics in government that is taught or approved by the Commission.

Sec. 2. NRS 281.411 is hereby amended to read as follows:

281.411 NRS 281.411 to 281.581, inclusive, *and section 1 of this act*, may be cited as the Nevada Ethics in Government Law.



1 **Sec. 3.** NRS 281.431 is hereby amended to read as follows:
2 281.431 As used in NRS 281.411 to 281.581, inclusive, *and*
3 *section 1 of this act*, unless the context otherwise requires, the
4 words and terms defined in NRS 281.432 to 281.4375, inclusive,
5 have the meanings ascribed to them in those sections.

6 **Sec. 4.** NRS 281.541 is hereby amended to read as follows:
7 281.541 1. Any department, board, commission or other
8 agency of the State or the governing body of a county or an
9 incorporated city may establish a specialized or local ethics
10 committee to complement the functions of the Commission. A
11 specialized or local ethics committee may:

12 (a) Establish a code of ethical standards suitable for the
13 particular ethical problems encountered in its sphere of activity. The
14 standards may not be less restrictive than the statutory ethical
15 standards.

16 (b) Render an opinion upon the request of any public officer or
17 employee of its own organization or level seeking an interpretation
18 of its ethical standards on questions directly related to the propriety
19 of his own future official conduct or refer the request to the
20 Commission. Any public officer or employee subject to the
21 jurisdiction of the committee shall direct his inquiry to that
22 committee instead of the Commission.

23 (c) Require the filing of statements of financial disclosure by
24 public officers on forms prescribed by the committee or the city
25 clerk if the form has been:

26 (1) Submitted, at least 60 days before its anticipated
27 distribution, to the Commission for review; and

28 (2) Upon review, approved by the Commission.

29 2. *A code of ethical standards established by a specialized or*
30 *local ethics committee of a county or an incorporated city*
31 *pursuant to subsection 1 may include, without limitation, a*
32 *provision that prohibits any former public officer of the county or*
33 *city, as the case may be, from lobbying the governing body of the*
34 *city or county for a limited period of time after the public officer*
35 *leaves office. As used in this subsection, "lobbying" means*
36 *communicating with a member of the board of county*
37 *commissioners, the governing body of a city or an employee of the*
38 *county or city on behalf of another person to seek to influence*
39 *action by the board of county commissioners or the governing*
40 *body of the city, for consideration or under circumstances in*
41 *which consideration would ordinarily be paid for such*
42 *communication.*

43 3. A specialized or local ethics committee shall not attempt to
44 interpret or render an opinion regarding the statutory ethical
45 standards.



~~3.1~~ 4. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 5. 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:

(a) Not to exceed \$5,000 for a first willful violation of this chapter ~~H~~ *except section 1 of this act;*

(b) Not to exceed \$10,000 for a separate act or event that constitutes a second willful violation of this chapter ~~H~~ *except section 1 of this act;* and

(c) Not to exceed \$25,000 for a separate act or event that constitutes a third willful violation of this chapter ~~H~~ *except section 1 of this act.*

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 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. In addition to any other penalty provided by law, by an affirmative vote of two-thirds of the Commission, the Commission may impose on any person who violates any provision of NRS 294A.345 or 294A.346 a civil penalty not to exceed \$5,000. 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) A willful violation of this chapter has been committed by a public officer removable from office by impeachment only, the Commission shall file a report with the appropriate person



1 responsible for commencing impeachment proceedings as to its
2 finding. The report must contain a statement of the facts alleged to
3 constitute the violation.

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

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

12 6. An action taken by a public officer or employee or former
13 public officer or employee relating to NRS 281.481, 281.491,
14 281.501 or 281.505 is not a willful violation of a provision of those
15 sections if the public officer or employee ~~is~~

16 ~~—(a) Relied~~ *establishes by sufficient evidence that he satisfied*
17 *all of the following requirements:*

18 (a) *He relied* in good faith upon the advice of the legal counsel
19 retained by the public body which the public officer represents or by
20 the employer of the public employee or upon the manual published
21 by the Commission pursuant to NRS 281.471;

22 (b) ~~Was~~ *He was* unable, through no fault of his own, to obtain
23 an opinion from the Commission before the action was taken; and

24 (c) ~~Took~~ *He took* action that was not contrary to a prior
25 published opinion issued by the Commission.

26 7. In addition to other penalties provided by law, a public
27 employee who willfully violates a provision of NRS 281.481,
28 281.491, 281.501 or 281.505 is subject to disciplinary proceedings
29 by his employer and must be referred for action in accordance to the
30 applicable provisions governing his employment.

31 8. NRS 281.481 to 281.541, inclusive, do not abrogate or
32 decrease the effect of the provisions of the Nevada Revised Statutes
33 which define crimes or prescribe punishments with respect to the
34 conduct of public officers or employees. If the Commission finds
35 that a public officer or employee has committed a willful violation
36 of this chapter , *except section 1 of this act*, which it believes may
37 also constitute a criminal offense, the Commission shall refer the
38 matter to the Attorney General or the district attorney, as
39 appropriate, for a determination of whether a crime has been
40 committed that warrants prosecution.

41 9. The imposition of a civil penalty pursuant to subsections 1 to
42 4, inclusive, is a final decision for the purposes of judicial review.

43 10. A finding by the Commission that a public officer or
44 employee has violated any provision of this chapter , *except section*



1 **1 of this act**, must be supported by a preponderance of the evidence
2 unless a greater burden is otherwise prescribed by law.

3 **Sec. 6.** 1. There is hereby appropriated from the State
4 General Fund to the Commission on Ethics for the administrative
5 costs to the Commission that are related to carrying out the
6 provisions of section 1 of this act:

7 For the Fiscal Year 2005-2006..... \$10,900

8 For the Fiscal Year 2006-2007..... \$4,975

9 2. Any balance of the sums appropriated by subsection 1
10 remaining at the end of the respective fiscal years must not be
11 committed for expenditure after June 30 of the respective fiscal
12 years and must be reverted to the State General Fund on or before
13 September 15, 2006, and September 21, 2007, respectively.

14 **Sec. 7.** The provisions of section 1 of this act do not apply to
15 any public officer elected or appointed to his office before July 1,
16 2005.

17 **Sec. 8.** This act becomes effective on July 1, 2005.



