

ASSEMBLY BILL NO. 538—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

(ON BEHALF OF THE COMMISSION ON ETHICS)

MARCH 29, 2005

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

SUMMARY—Makes various changes relating to ethics in
government. (BDR 23-272)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 restrictions upon the association of a former Commissioner of the Public Utilities Commission of Nevada with a public utility; revising the date for submission of a disclosure of representation or counseling of a private person for compensation before a state agency; revising provisions governing abstention from voting for members of a county or city planning commission in larger counties; providing a time limitation for the submission of certain requests for opinions by the Commission on Ethics; revising the penalty for the acceptance or receipt of an honorarium; revising the requirements relating to the filing of statements 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.** Chapter 281 of NRS is hereby amended by adding
- 2 thereto a new section to read as follows:
- 3 *As used in NRS 281.559 to 281.581, inclusive, unless the*
- 4 *context otherwise requires:*



1 1. *“Public officer” means a person elected or appointed to a*
2 *position which is established by the Constitution of the State of*
3 *Nevada, a statute of this State or an ordinance of any of its*
4 *counties or incorporated cities and which involves the exercise of*
5 *a public power, trust or duty. As used in this section, “the exercise*
6 *of a public power, trust or duty” means:*

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

10 (b) *The expenditure of public money; and*

11 (c) *The enforcement of laws and rules of the State, a county or*
12 *a city.*

13 2. *“Public officer” does not include:*

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

15 (b) *Any member of a board, commission or other body whose*
16 *function is advisory;*

17 (c) *Any member of a board of trustees for a general*
18 *improvement district or special district whose official duties do not*
19 *include the formulation of a budget for the district or the*
20 *authorization of the expenditure of the district’s money; or*

21 (d) *A county health officer appointed pursuant to*
22 *NRS 439.290.*

23 3. *“Public office” does not include an office held by:*

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

25 (b) *Any member of a board, commission or other body whose*
26 *function is advisory;*

27 (c) *Any member of a board of trustees for a general*
28 *improvement district or special district whose official duties do not*
29 *include the formulation of a budget for the district or the*
30 *authorization of the expenditure of the district’s money; or*

31 (d) *A county health officer appointed pursuant to*
32 *NRS 439.290.*

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

34 281.236 1. A *former Commissioner of the Public Utilities*
35 *Commission of Nevada shall not appear before the Public Utilities*
36 *Commission of Nevada on behalf of a public utility or be employed*
37 *by a public utility , that is regulated by the Commission or a parent*
38 *organization or subsidiary of such a public utility [shall not employ*
39 *a former member of the Public Utilities Commission of Nevada]* for
40 1 year after the termination of his service on the Commission.

41 2. A person who holds a license issued pursuant to chapter 463
42 or 464 of NRS or who is required to register with the Nevada
43 Gaming Commission pursuant to chapter 463 of NRS shall not
44 employ a former member of the State Gaming Control Board or the



1 Nevada Gaming Commission for 1 year after the termination of the
2 member's service on the Board or Commission.

3 3. In addition to the prohibitions set forth in subsections 1 and
4 2, a business or industry whose activities are governed by
5 regulations adopted by a department, division or other agency of the
6 Executive Branch of government shall not, except as otherwise
7 provided in subsection 4, employ a former public officer or
8 employee of the agency, except a clerical employee, for 1 year after
9 the termination of his service or period of employment if:

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

12 (b) During the immediately preceding year he directly
13 performed activities, or controlled or influenced an audit, decision,
14 investigation or other action, which significantly affected the
15 business or industry which might, but for this section, employ him;
16 or

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

20 4. A public officer or employee may request the Commission
21 on Ethics to apply the relevant facts in his case to the provisions of
22 subsection 3 and determine whether relief from the strict application
23 of the provisions is proper. If the Commission on Ethics determines
24 that relief from the strict application of the provisions of subsection
25 3 is not contrary to:

26 (a) The best interests of the public;

27 (b) The continued integrity of state government; and

28 (c) The code of ethical standards prescribed in NRS 281.481,
29 ➔ it may issue an opinion to that effect and grant such relief. The
30 opinion of the Commission on Ethics in such a case is subject to
31 judicial review.

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

34 **Sec. 3.** NRS 281.411 is hereby amended to read as follows:

35 281.411 NRS 281.411 to 281.581, inclusive, *and section 1 of*
36 *this act* may be cited as the Nevada Ethics in Government Law.

37 **Sec. 4.** NRS 281.4365 is hereby amended to read as follows:

38 281.4365 1. "Public officer" means a person elected or
39 appointed to a position which is established by the Constitution of
40 the State of Nevada, a statute of this State or an ordinance of any of
41 its counties or incorporated cities and which involves ~~the exercise~~
42 ~~of a public power, trust or duty. As used in this section, "the~~
43 ~~exercise of a public power, trust or duty" means:]~~ *two or more of*
44 *the following:*



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

(b) The expenditure of public money; ~~and~~ or

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

2. "Public officer" does not include:

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

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

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

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

3. "Public office" does not include an office held by:

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

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

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

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

Sec. 5. NRS 281.4635 is hereby amended to read as follows:

281.4635 1. In addition to any other duties imposed upon him, the Executive Director shall:

(a) Maintain complete and accurate records of all transactions and proceedings of the Commission.

(b) Receive requests for opinions pursuant to NRS 281.511, 294A.345 or 294A.346.

(c) Gather information and conduct investigations regarding requests for opinions received by the Commission and submit recommendations to the panel appointed pursuant to NRS 281.462 regarding whether there is just and sufficient cause to render an opinion in response to a particular request.

(d) Recommend to the Commission any regulations or legislation that he considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government.

(e) Upon the request of any public officer or the employer of a public employee, conduct training on the requirements of this chapter, the rules and regulations adopted by the Commission and previous opinions of the Commission. In any such training, the Executive Director shall emphasize that he is not a member of the



1 Commission and that only the Commission may issue opinions
2 concerning the application of the statutory ethical standards to any
3 given set of facts and circumstances. The Commission may charge a
4 reasonable fee to cover the costs of training provided by the
5 Executive Director pursuant to this subsection.

6 (f) Perform such other duties, not inconsistent with law, as may
7 be required by the Commission.

8 2. The Executive Director shall, within the limits of legislative
9 appropriation, employ such persons as are necessary to carry out any
10 of his duties relating to:

11 (a) The administration of the affairs of the Commission; *and*

12 (b) ~~The review of statements of financial disclosure; and-~~

13 ~~—(c)~~ The investigation of matters under the jurisdiction of the
14 Commission.

15 **Sec. 6.** NRS 281.464 is hereby amended to read as follows:

16 281.464 1. The Commission shall appoint, within the limits
17 of legislative appropriation, a Commission Counsel who shall
18 perform the duties set forth in this chapter and such other duties as
19 may be prescribed by the ~~[Commission.]~~ *Executive Director.*

20 2. The Commission Counsel must be an attorney who is
21 licensed to practice law in this State.

22 3. The Commission Counsel is in the unclassified service of
23 the State.

24 4. The Commission Counsel shall devote his entire time and
25 attention to the business of the Commission and shall not pursue any
26 other business or occupation or hold any other office of profit that
27 detracts from the full and timely performance of his duties.

28 5. The Commission Counsel may not:

29 (a) Be actively involved in the work of any political party or
30 political campaign; or

31 (b) Communicate directly or indirectly with a member of the
32 legislative branch on behalf of someone other than himself to
33 influence legislative action, except in pursuit of the business of the
34 Commission.

35 **Sec. 7.** NRS 281.465 is hereby amended to read as follows:

36 281.465 1. The Commission has jurisdiction to investigate
37 and take appropriate action regarding an alleged violation of:

38 (a) This chapter by a public officer or employee or former public
39 officer or employee in any proceeding commenced by:

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

42 (2) The Commission on its own motion.

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



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

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

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

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

(2) Within ~~1-year~~ 3 years after the alleged violation or reasonable discovery of the alleged violation.

Sec. 8. NRS 281.471 is hereby amended to read as follows:

281.471 The Commission shall:

1. Adopt procedural regulations:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of a request for an opinion with the Commission;

(c) For the withdrawal of a request for an opinion by the person who filed the request; and

(d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281.559 and forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281.552, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. ~~Except as otherwise provided in NRS 281.559, inform the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.~~

~~5.]~~ Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

~~6.]~~ 5. Publish a manual for the use of public officers and employees that contains:

(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281.511, for the future guidance of all persons concerned with ethical standards in government;

(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281.511; and

(c) An abstract of the requirements of this chapter.



1 ➤ The Legislative Counsel shall prepare annotations to this chapter
2 for inclusion in the Nevada Revised Statutes based on the abstracts
3 and published opinions of the Commission.

4 **Sec. 9.** NRS 281.481 is hereby amended to read as follows:

5 281.481 A code of ethical standards is hereby established to
6 govern the conduct of public officers and employees:

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

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

18 (a) "Commitment in a private capacity to the interests of that
19 person" has the meaning ascribed to "commitment in a private
20 capacity to the interests of others" in subsection ~~(8)~~ 7 of
21 NRS 281.501.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

19 8. A member of the Legislature shall not:

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

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

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

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

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

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

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

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

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

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

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



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

3 **Sec. 10.** NRS 281.491 is hereby amended to read as follows:

4 281.491 In addition to the requirements of the code of ethical
5 standards:

6 1. A member of the executive branch or public employee of the
7 executive branch shall not accept compensation from any private
8 person to represent or counsel him on any issue pending before the
9 agency in which that officer or employee serves, if the agency
10 makes decisions. Any such officer or employee who leaves the
11 service of the agency shall not, for 1 year after leaving the service of
12 the agency, represent or counsel for compensation a private person
13 upon any issue which was under consideration by the agency during
14 his service. As used in this subsection, "issue" includes a case,
15 proceeding, application, contract or determination, but does not
16 include the proposal or consideration of legislative measures or
17 administrative regulations.

18 2. A member of the legislative branch, or a member of the
19 executive branch or public employee whose public service requires
20 less than half of his time, may represent or counsel a private person
21 before an agency in which he does not serve. Any other member of
22 the executive branch or public employee shall not represent a client
23 for compensation before any state agency of the Executive or
24 Legislative Branch of government.

25 3. Not later than January ~~10~~ 15 of each year, any Legislator
26 or other public officer who has, within the preceding year,
27 represented or counseled a private person for compensation before a
28 state agency of the Executive Branch shall disclose for each such
29 representation or counseling during the previous calendar year:

30 (a) The name of the client;

31 (b) The nature of the representation; and

32 (c) The name of the state agency.

33 ➔ The disclosure must be made in writing and filed with the
34 Commission, on a form prescribed by the Commission. The
35 Commission shall retain a disclosure filed pursuant to this
36 subsection for 6 years after the date on which the disclosure was
37 filed.

38 **Sec. 11.** NRS 281.501 is hereby amended to read as follows:

39 281.501 1. Except as otherwise provided in subsection 2 ~~1, 3~~
40 ~~or 4,~~ or 3, a public officer may vote upon a matter if the benefit or
41 detriment accruing to him as a result of the decision either
42 individually or in a representative capacity as a member of a general
43 business, profession, occupation or group is not greater than that
44 accruing to any other member of the general business, profession,
45 occupation or group.



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

(a) His acceptance of a gift or loan;

(b) His pecuniary interest; or

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

➔ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons **to** whose interests ~~[to which]~~ the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection ~~[4]~~ **3** relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

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

~~—(a) His acceptance of a gift or loan;~~

~~—(b) His direct pecuniary interest; or~~

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

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

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

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



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

3 (c) In which he has a pecuniary interest,
4 ➔ without disclosing sufficient information concerning the gift,
5 loan, commitment or interest to inform the public of the potential
6 effect of the action or abstention upon the person who provided the
7 gift or loan, upon the person to whom he has a commitment, or upon
8 his interest. Except as otherwise provided in subsection ~~[6.]~~ 5, such
9 a disclosure must be made at the time the matter is considered. If the
10 officer or employee is a member of a body which makes decisions,
11 he shall make the disclosure in public to the Chairman and other
12 members of the body. If the officer or employee is not a member of
13 such a body and holds an appointive office, he shall make the
14 disclosure to the supervisory head of his organization or, if he holds
15 an elective office, to the general public in the area from which he is
16 elected. This subsection does not require a public officer to disclose
17 any campaign contributions that the public officer reported pursuant
18 to NRS 294A.120 or 294A.125 in a timely manner.

19 ~~[5.]~~ 4. Except as otherwise provided in NRS 241.0355, if a
20 public officer declares to the body or committee in which the vote is
21 to be taken that he will abstain from voting because of the
22 requirements of this section, the necessary quorum to act upon and
23 the number of votes necessary to act upon the matter, as fixed by
24 any statute, ordinance or rule, is reduced as though the member
25 abstaining were not a member of the body or committee.

26 ~~[6.]~~ 5. After a member of the Legislature makes a disclosure
27 pursuant to subsection ~~[4.]~~ 3, he may file with the Director of the
28 Legislative Counsel Bureau a written statement of his disclosure.
29 The written statement must designate the matter to which the
30 disclosure applies. After a Legislator files a written statement
31 pursuant to this subsection, he is not required to disclose orally his
32 interest when the matter is further considered by the Legislature or
33 any committee thereof. A written statement of disclosure is a public
34 record and must be made available for inspection by the public
35 during the regular office hours of the Legislative Counsel Bureau.

36 ~~[7.]~~ 6. The provisions of this section do not, under any
37 circumstances:

38 (a) Prohibit a member of the legislative branch from requesting
39 or introducing a legislative measure; or

40 (b) Require a member of the legislative branch to take any
41 particular action before or while requesting or introducing a
42 legislative measure.

43 ~~[8.]~~ 7. As used in this section, "commitment in a private
44 capacity to the interests of others" means a commitment to a person:

45 (a) Who is a member of his household;



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

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

(d) With whom he has a substantial and continuing business relationship; or

(e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

Sec. 12. NRS 281.511 is hereby amended to read as follows:

281.511 1. The Commission shall render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances upon request, on a form prescribed by the Commission, from a public officer or employee who is seeking guidance on questions which directly relate to the propriety of his own past, present or future conduct as an officer or employee. He may also request the Commission to hold a public hearing regarding the requested opinion. If a requested opinion relates to the propriety of his own present or future conduct, the opinion of the Commission is:

(a) Binding upon the requester as to his future conduct; and

(b) Final and subject to judicial review pursuant to NRS 233B.130, except that a proceeding regarding this review must be held in closed court without admittance of persons other than those necessary to the proceeding, unless this right to confidential proceedings is waived by the requester.

2. The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances:

(a) Upon request from a specialized or local ethics committee.

(b) Except as otherwise provided in this subsection, upon request from a person, if the requester submits:

(1) The request on a form prescribed by the Commission; and

(2) All related evidence deemed necessary by the Executive Director and the panel to make a determination of whether there is just and sufficient cause to render an opinion in the matter.

(c) Upon the Commission's own motion regarding the propriety of conduct by a public officer or employee. The Commission shall not initiate proceedings pursuant to this paragraph based solely upon an anonymous complaint.

➔ The Commission shall not render an opinion interpreting the statutory ethical standards or apply those standards to a given set of facts and circumstances if the request is submitted by a person who is incarcerated in a correctional facility in this State ~~or~~ *or is submitted 3 years or more after the alleged violation of this chapter occurred or reasonably should have been discovered.*



1 3. Upon receipt of a request for an opinion by the Commission
2 or upon the motion of the Commission pursuant to subsection 2, the
3 Executive Director shall investigate the facts and circumstances
4 relating to the request to determine whether there is just and
5 sufficient cause for the Commission to render an opinion in the
6 matter. The public officer or employee that is the subject of the
7 request may submit to the Executive Director any information
8 relevant to the request. The Executive Director shall complete an
9 investigation and present his recommendation relating to just and
10 sufficient cause to the panel within 45 days after the receipt of or the
11 motion of the Commission for the request, unless the public officer
12 or employee waives this time limit. If the Executive Director
13 determines after an investigation that just and sufficient cause exists
14 for the Commission to render an opinion in the matter, he shall state
15 such a recommendation in writing, including, without limitation, the
16 specific evidence that supports his recommendation. If, after an
17 investigation, the Executive Director does not determine that just
18 and sufficient cause exists for the Commission to render an opinion
19 in the matter, he shall state such a recommendation in writing,
20 including, without limitation, the specific reasons for his
21 recommendation. Within 15 days after the Executive Director has
22 provided his recommendation in the matter to the panel, the panel
23 shall make a final determination regarding whether just and
24 sufficient cause exists for the Commission to render an opinion in
25 the matter, unless the public officer or employee waives this time
26 limit. The panel shall not determine that there is just and sufficient
27 cause for the Commission to render an opinion unless the panel has
28 provided the public officer or employee an opportunity to respond to
29 the allegations against him. The panel shall cause a record of its
30 proceedings in each matter to be kept, and such a record must
31 remain confidential until the panel determines whether there is just
32 and sufficient cause for the Commission to render an opinion in the
33 matter.

34 4. If the panel determines that just and sufficient cause exists
35 for the Commission to render an opinion requested pursuant to this
36 section, the Commission shall hold a hearing and render an opinion
37 in the matter within 30 days after the determination of just and
38 sufficient cause by the panel, unless the public officer or employee
39 waives this time limit.

40 5. Each request for an opinion that a public officer or employee
41 submits to the Commission pursuant to subsection 1, each opinion
42 rendered by the Commission in response to such a request and any
43 motion, determination, evidence or record of a hearing relating to
44 such a request are confidential unless the public officer or employee
45 who requested the opinion:



1 (a) Acts in contravention of the opinion, in which case the
2 Commission may disclose the request for the opinion, the contents
3 of the opinion and any motion, evidence or record of a hearing
4 related thereto;

5 (b) Discloses the request for the opinion, the contents of the
6 opinion, or any motion, evidence or record of a hearing related
7 thereto; or

8 (c) Requests the Commission to disclose the request for the
9 opinion, the contents of the opinion, or any motion, evidence or
10 record of a hearing related thereto.

11 6. Except as otherwise provided in this subsection, each
12 document in the possession of the Commission or its staff that is
13 related to a request for an opinion regarding a public officer or
14 employee submitted to or initiated by the Commission pursuant to
15 subsection 2, including, without limitation, the Commission's copy
16 of the request and all materials and information gathered in an
17 investigation of the request, is confidential until the panel
18 determines whether there is just and sufficient cause to render an
19 opinion in the matter. The public officer or employee who is the
20 subject of a request for an opinion submitted or initiated pursuant to
21 subsection 2 may in writing authorize the Commission to make its
22 files, material and information which are related to the request
23 publicly available.

24 7. Except as otherwise provided in paragraphs (a) and (b), the
25 proceedings of a panel are confidential until the panel determines
26 whether there is just and sufficient cause to render an opinion. A
27 person who:

28 (a) Requests an opinion from the Commission pursuant to
29 paragraph (b) of subsection 2 may:

30 (1) At any time, reveal to a third party the alleged conduct of
31 a public officer or employee underlying the request that he filed
32 with the Commission or the substance of testimony, if any, that he
33 gave before the Commission.

34 (2) After the panel determines whether there is just and
35 sufficient cause to render an opinion in the matter, reveal to a third
36 party the fact that he requested an opinion from the Commission.

37 (b) Gives testimony before the Commission may:

38 (1) At any time, reveal to a third party the substance of
39 testimony that he gave before the Commission.

40 (2) After the panel determines whether there is just and
41 sufficient cause to render an opinion in the matter, reveal to a third
42 party the fact that he gave testimony before the Commission.

43 8. Whenever the Commission holds a hearing pursuant to this
44 section, the Commission shall:



1 (a) Notify the person about whom the opinion was requested of
2 the place and time of the Commission's hearing on the matter;

3 (b) Allow the person to be represented by counsel; and

4 (c) Allow the person to hear the evidence presented to the
5 Commission and to respond and present evidence on his own behalf.

6 ➔ The Commission's hearing may be held no sooner than 10 days
7 after the notice is given unless the person agrees to a shorter time.

8 9. If a person who is not a party to a hearing before the
9 Commission, including, without limitation, a person who has
10 requested an opinion pursuant to paragraph (a) or (b) of subsection
11 2, wishes to ask a question of a witness at the hearing, the person
12 must submit the question to the Executive Director in writing. The
13 Executive Director may submit the question to the Commission if he
14 deems the question relevant and appropriate. This subsection does
15 not require the Commission to ask any question submitted by a
16 person who is not a party to the proceeding.

17 10. If a person who requests an opinion pursuant to subsection
18 1 or 2 does not:

19 (a) Submit all necessary information to the Commission; and

20 (b) Declare by oath or affirmation that he will testify truthfully,

21 ➔ the Commission may decline to render an opinion.


22 11. For good cause shown, the Commission may take
23 testimony from a person by telephone or video conference.

24 12. For the purposes of NRS 41.032, the members of the
25 Commission and its employees shall be deemed to be exercising or
26 performing a discretionary function or duty when taking an action
27 related to the rendering of an opinion pursuant to this section.

28 13. A meeting or hearing that the Commission or the panel
29 holds to receive information or evidence concerning the propriety of
30 the conduct of a public officer or employee pursuant to this section
31 and the deliberations of the Commission and the panel on such
32 information or evidence are not subject to the provisions of chapter
33 241 of NRS.

34 **Sec. 13.** NRS 281.552 is hereby amended to read as follows:

35 281.552 1. Every public officer shall acknowledge that he
36 has received, read and understands the statutory ethical standards.
37 The acknowledgment must be on a form prescribed by the
38 Commission and must :

39 *(a) If the public officer is required to file a statement of*
40 *financial disclosure pursuant to NRS 281.559 or 281.561,*
41 *accompany the first statement of financial disclosure that the public*
42 *officer is required to file with the Commission pursuant to NRS*
43 *281.559 or the Secretary of State pursuant to NRS 281.561*  *after*
44 *the election or appointment of the public officer.*



1 ***(b) If the public officer is not required to file a statement of***
2 ***financial disclosure pursuant to NRS 281.559, be filed with the***
3 ***Commission within 30 days after the appointment of the public***
4 ***officer.***

5 2. The Commission and the Secretary of State shall retain an
6 acknowledgment filed pursuant to this section for 6 years after the
7 date on which the acknowledgment was filed.

8 3. Willful refusal to execute and file the acknowledgment
9 required by this section constitutes nonfeasance in office and is a
10 ground for removal ~~[pursuant to]~~ ***if the public officer is subject to***
11 ***the provisions of NRS 283.440.***

12 **Sec. 14.** NRS 281.553 is hereby amended to read as follows:

13 281.553 1. A public officer or public employee shall not
14 accept or receive an honorarium.

15 2. An honorarium paid on behalf of a public officer or public
16 employee to a charitable organization from which the officer or
17 employee does not derive any financial benefit is deemed not to be
18 accepted or received by the officer or employee for the purposes of
19 this section.

20 3. This section does not prohibit:

21 (a) The receipt of payment for work performed outside the
22 normal course of a person's public office or employment if the
23 performance of that work is consistent with the applicable policies
24 of his public employer regarding supplemental employment.

25 (b) The receipt of an honorarium by the spouse of a public
26 officer or public employee if it is related to the spouse's profession
27 or occupation.

28 4. As used in this section, "honorarium" means the payment of
29 money or anything of value for an appearance or speech by the
30 public officer or public employee in his capacity as a public officer
31 or public employee. The term does not include the payment of:

32 (a) The actual and necessary costs incurred by the public officer
33 or public employee, his spouse or his aid for transportation and for
34 lodging and meals while the public officer or public employee is
35 away from his residence.

36 (b) Compensation which would otherwise have been earned by
37 the public officer or public employee in the normal course of his
38 public office or employment.

39 (c) A fee for a speech related to the officer's or employee's
40 profession or occupation outside of his public office or employment
41 if:

42 (1) Other members of the profession or occupation are
43 ordinarily compensated for such a speech; and

44 (2) The fee paid to the public officer or public employee is
45 approximately the same as the fee that would be paid to a member



1 of the private sector whose qualifications are similar to those of the
2 officer or employee for a comparable speech.

3 (d) A fee for a speech delivered to an organization of
4 legislatures, legislators or other elected officers.

5 5. ~~[A]~~ *In addition to any other penalty imposed pursuant to*
6 *NRS 281.551, a* public officer or public employee who violates the
7 provisions of this section ~~[is guilty of a gross misdemeanor and,~~
8 ~~upon conviction, forfeits]~~ *shall forfeit* the amount of the
9 honorarium.

10 **Sec. 15.** NRS 281.559 is hereby amended to read as follows:

11 281.559 1. Except as otherwise provided in subsection 2, if a
12 public officer who was appointed to *fill the unexpired term of an*
13 *appointed public officer or appointed to* the office for which he is
14 serving is entitled to receive annual compensation of \$6,000 or more
15 for serving in that office, he shall file with the Commission a
16 statement of financial disclosure, as follows:

17 (a) A public officer appointed to fill the unexpired term of an
18 ~~[elected or]~~ appointed public officer shall file a statement of
19 financial disclosure within 30 days after his appointment.

20 (b) Each public officer appointed to fill an office shall file a
21 statement of financial disclosure on or before January 15 of each
22 year of the term, including the year the term expires.

23 2. If a person is serving in a public office for which he is
24 required to file a statement pursuant to subsection 1, he may use the
25 statement he files for that initial office to satisfy the requirements of
26 subsection 1 for every other public office to which he is appointed
27 and in which he is also serving.

28 3. A judicial officer who is appointed to fill the unexpired term
29 of a predecessor or to fill a newly created judgeship shall file a
30 statement of financial disclosure pursuant to the requirements of
31 Canon 4I of the Nevada Code of Judicial Conduct. Such a statement
32 of financial disclosure must include, without limitation, all
33 information required to be included in a statement of financial
34 disclosure pursuant to NRS 281.571.

35 4. The Commission shall provide written notification to the
36 Secretary of State of the public officers who failed to file the
37 statements of financial disclosure required by subsection 1 or who
38 failed to file those statements in a timely manner. The notice must
39 be sent within 30 days after the deadlines set forth in subsection 1
40 and must include:

41 (a) The name of each public officer who failed to file his
42 statement of financial disclosure within the period before the notice
43 is sent;



(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;

(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and

(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.

5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.

6. A statement of financial disclosure shall be deemed to be filed with the Commission:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.

Sec. 16. NRS 281.561 is hereby amended to read as follows:

281.561 1. Each candidate for public office ~~{who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that he is seeking}~~ , *each public officer appointed to fill the unexpired term of an elected public officer* and each public officer who was elected to the office for which he is serving shall file with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office; ~~{and}~~

(b) *A public officer appointed to fill the unexpired term of an elected public officer shall file a statement of financial disclosure within 30 days after his appointment; and*

(c) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

2. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement



1 of financial disclosure must include, without limitation, all
2 information required to be included in a statement of financial
3 disclosure pursuant to NRS 281.571.

4 3. A statement of financial disclosure shall be deemed to be
5 filed with the Secretary of State:

6 (a) On the date that it was mailed if it was sent by certified mail;
7 or

8 (b) On the date that it was received by the Secretary of State if
9 the statement was sent by regular mail, transmitted by facsimile
10 machine or electronic means, or delivered personally.

11 4. The statement of financial disclosure filed pursuant to this
12 section must be filed on the form prescribed by the Commission
13 pursuant to NRS 281.471.

14 5. The Secretary of State shall prescribe, by regulation,
15 procedures for the submission of statements of financial disclosure
16 filed pursuant to this section, maintain files of such statements and
17 make the statements available for public inspection.

18 **Sec. 17.** NRS 241.0355 is hereby amended to read as follows:

19 241.0355 1. A public body that is required to be composed of
20 elected officials only may not take action by vote unless at least a
21 majority of all the members of the public body vote in favor of the
22 action. For purposes of this subsection, a public body may not count
23 an abstention as a vote in favor of an action.

24 2. In a county whose population is 40,000 or more, the
25 provisions of subsection ~~5~~ 4 of NRS 281.501 do not apply to a
26 public body that is required to be composed of elected officials only,
27 unless before abstaining from the vote, the member of the public
28 body receives and discloses the opinion of the legal counsel
29 authorized by law to provide legal advice to the public body that the
30 abstention is required pursuant to NRS 281.501. The opinion of
31 counsel must be in writing and set forth with specificity the factual
32 circumstances and analysis leading to that conclusion.



