

## Amendment No. 453

Assembly Amendment to Assembly Bill No. 419

(BDR 23-1020)

**Proposed by:** Committee on Government Affairs**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend sec. 2, page 2, line 41, by deleting “*campaign*,” and inserting:

*“campaign and the preparation of statements of financial disclosure required pursuant to NRS 281.559 or 281.561 and reports of campaign contributions and expenditures required pursuant to chapter 294A of NRS,”.*

Amend sec. 2, page 3, line 23, by deleting “*campaign*,” and inserting:

*“campaign and the preparation of statements of financial disclosure required pursuant to NRS 281.559 or 281.561 and reports of campaign contributions and expenditures required pursuant to chapter 294A of NRS,”.*

Amend sec. 2, page 4, by deleting lines 3 through 9 and inserting:

*“11. A public officer or employee who is a member of a public body shall not attend a meeting of that public body where action is taken in violation of any provision of chapter 241 of*

HC/EGO

Date: 4/25/2005

A.B. No. 419—Makes various changes relating to public officers and employees.



*NRS if the public officer or employee knows or should have known that the meeting is in violation thereof.*

*12. As used in this section, “activity relating to a political campaign” means any activity designed to affect the outcome of any primary, general or special election or question on the ballot.”.*

Amend the bill as a whole by renumbering sections 4 through 6 as sections 5 through 7 and adding a new section designated sec. 4, following sec. 3, to read as follows:

“**Sec. 4.** NRS 281.611 is hereby amended to read as follows:

281.611 As used in NRS 281.611 to 281.671, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. “Improper governmental action” means any action taken by a state officer or employee or local governmental officer or employee in the performance of his official duties, whether or not the action is within the scope of his employment, which is:

- (a) In violation of any state law or regulation;
- (b) If the officer or employee is a local governmental officer or employee, in violation of an ordinance of the local government;
- (c) An abuse of authority;
- (d) Of substantial and specific danger to the public health or safety; or
- (e) A gross waste of public money.

2. “Local government” means a county in this State, an incorporated city in this State and Carson City.

3. “Local governmental employee” means any person who performs public duties under the direction and control of a local governmental officer for compensation paid by or through a local government.

4. “Local governmental officer” means a person elected or appointed to a position with a local government that involves the exercise of a local governmental power, trust or duty, including:

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

(b) The expenditure of money of a local government; and

(c) The enforcement of laws and regulations of the State or a local government.

5. “Reprisal or retaliatory action” includes:

(a) The denial of adequate personnel to perform duties;

(b) Frequent replacement of members of the staff;

(c) Frequent and undesirable changes in the location of an office;

(d) The refusal to assign meaningful work;

(e) The issuance of letters of reprimand or evaluations of poor performance;

(f) A demotion;

(g) A reduction in pay;

(h) The denial of a promotion;

(i) A suspension;

(j) A dismissal;

(k) A transfer;

(l) Frequent changes in working hours or workdays; or

(m) If the employee is licensed or certified by an occupational licensing board, the filing with that board, by or on behalf of the employer, of a complaint concerning the employee,

↪ if such action is taken, in whole or in part, because the state officer or employee or local governmental officer or employee disclosed information concerning improper governmental action.

6. “State employee” means any person who performs public duties under the direction and control of a state officer for compensation paid by or through the State.

7. “State officer” means a person elected or appointed to a position with the State which involves the exercise of a state power, trust or duty, including:

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

(b) The expenditure of state money; and

(c) The enforcement of laws and regulations of the State.”.

Amend sec. 4, page 6, line 25, after “4.” by inserting:

***“The issuance of an order against a person for taking reprisal or retaliatory action pursuant to subsection 2 constitutes grounds for disciplinary action against the person.***

***5.”.***

Amend sec. 5, page 7, line 2, by deleting “and” and inserting “[and]”.

Amend sec. 5, page 7, line 6, by deleting “action.” and inserting:

“action [and] ; ***and***

***(d) Provide that the issuance of an order against a person for taking reprisal or retaliatory action pursuant to paragraph (c) constitutes grounds for disciplinary action against that person.”.***

Amend the bill as a whole by deleting sections 7 through 9, renumbering section 10 as section 11 and adding new sections designated sections 8 through 10, following sec. 6, to read as follows:

**“Sec. 8.** NRS 241.040 is hereby amended to read as follows:

241.040 1. Each member of a public body who attends a meeting of that public body where action is taken in violation of any provision of this chapter, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

2. Wrongful exclusion of any person or persons from a meeting is a misdemeanor.

3. A member of a public body who attends a meeting of that public body at which action is taken in violation of this chapter is not the accomplice of any other member so attending.

4. The Attorney General shall ~~investigate~~ :

(a) *Investigate* and prosecute any violation of this chapter ~~[-]~~ ; *and*

(b) *Report to the Commission on Ethics each member of a public body that is convicted of a violation of subsection 1.*

**Sec. 9.** Chapter 294A of NRS is hereby amended by adding thereto a new section to read as follows:

*Unless a greater penalty is provided by specific statute, any violation of this chapter is a misdemeanor.*

**Sec. 10.** NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.140, 294A.150, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280 or 294A.360 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that

person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, *and in addition to any other penalty imposed by law*, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.130, 294A.140, 294A.150, 294A.160, 294A.200, 294A.210, 294A.220, 294A.230, 294A.270, 294A.280, 294A.300, 294A.310, 294A.320 or 294A.360 is subject to a civil penalty of not more than \$5,000 for each violation and payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

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

(b) If the report is more than 7 days late but not more than 15 days late, \$50 for each day the report is late.

(c) If the report is more than 15 days late, \$100 for each day the report is late.

↪ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of \$100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

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

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

Amend the title of the bill to read as follows:

“AN ACT relating to government; revising the provisions concerning the disclosure of improper governmental action; prohibiting public officers and employees from using governmental time, property, equipment or other facility for activities relating to political campaigns and for the preparation of statements of financial disclosure and campaign contribution and expenditure reports; making attendance by a member of a public body at a meeting of the public body that violates the Open Meeting Law an ethics violation in certain circumstances; increasing the civil penalties for willful violations of the ethics provisions; providing civil penalties for repeated violations of the Open Meeting Law; making certain violations of campaign practices misdemeanors; providing a penalty; and providing other matters properly relating thereto.”.