
ASSEMBLY BILL NO. 143—ASSEMBLYMEN GOEDHART, BEERS,
GOICOECHEA, GRADY, HARDY, MARVEL, SETTELMAYER,
STEWART AND WEBER

FEBRUARY 21, 2007

JOINT SPONSORS: SENATORS BEERS AND MCGINNESS

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

SUMMARY—Revises provisions relating to the Commission on
Ethics. (BDR 23-855)

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 the Commission on Ethics; increasing the time within which the Executive Director of the Commission on Ethics is required to complete his investigation of the facts and circumstances relating to a request for an opinion; requiring the Commission to disclose the general status of a request for an opinion to the person who made the request; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes a person to request from the Commission on Ethics an
2 opinion interpreting the statutory ethical standards and applying those standards to
3 a particular set of facts and circumstances. Upon receipt of such a request, the
4 Executive Director of the Commission must investigate the facts and circumstances
5 relating to the request and determine whether there is just and sufficient cause for
6 the Commission to render an opinion in the matter. The Executive Director has 45
7 days after the receipt of the request to investigate and present his recommendation
8 to a panel of the Commission. (NRS 281.511) This bill increases from 45 days to 1
9 year the period given the Executive Director to make his investigation and present
10 his recommendation to a panel of the Commission. This bill also requires the



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11 Commission to disclose the general status of a request for an opinion to the person
12 who made the request.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 281.511 is hereby amended to read as follows:
2 281.511 1. The Commission shall render an opinion
3 interpreting the statutory ethical standards and apply the standards to
4 a given set of facts and circumstances upon request, on a form
5 prescribed by the Commission, from a public officer or employee
6 who is seeking guidance on questions which directly relate to the
7 propriety of his own past, present or future conduct as an officer or
8 employee. He may also request the Commission to hold a public
9 hearing regarding the requested opinion. If a requested opinion
10 relates to the propriety of his own present or future conduct, the
11 opinion of the Commission is:

12 (a) Binding upon the requester as to his future conduct; and
13 (b) Final and subject to judicial review pursuant to NRS
14 233B.130, except that a proceeding regarding this review must be
15 held in closed court without admittance of persons other than those
16 necessary to the proceeding, unless this right to confidential
17 proceedings is waived by the requester.

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

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

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

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

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

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

33 ➤ The Commission shall not render an opinion interpreting the
34 statutory ethical standards or apply those standards to a given set of
35 facts and circumstances if the request is submitted by a person who
36 is incarcerated in a correctional facility in this State.

37 3. Upon receipt of a request for an opinion by the Commission
38 or upon the motion of the Commission pursuant to subsection 2, the
39 Executive Director shall investigate the facts and circumstances



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

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

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

43 (a) Acts in contravention of the opinion, in which case the
44 Commission may disclose the request for the opinion, the contents



1 of the opinion and any motion, evidence or record of a hearing
2 related thereto;

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

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

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

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

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

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

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

35 (b) Gives testimony before the Commission may:

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

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

41 8. *The Commission shall disclose to a person who requests an*
42 *opinion from the Commission pursuant to paragraph (b) of*
43 *subsection 2 the general status of his request, including, without*
44 *limitation, whether the request has been received and an*
45 *abbreviated summary of the actions that the Commission is taking*



1 *with regard to the request. The provisions of this subsection do not*
2 *require the Commission, its officers or members to provide, and do*
3 *not authorize or entitle a person requesting an opinion to obtain:*

4 *(a) Personally identifying information concerning a person*
5 *other than the requester of the opinion;*

6 *(b) Information that is confidential;*

7 *(c) Information that is otherwise protected from disclosure by*
8 *any other provision of federal or state law; or*

9 *(d) Information the release of which, as determined by the*
10 *Executive Director, would interfere with:*

11 *(1) The ability of the Executive Director to conduct an*
12 *investigation;*

13 *(2) The ability of a panel to determine whether there is just*
14 *and sufficient cause for the Commission to render an opinion; or*

15 *(3) The ability of the Commission to render an opinion.*

16 **9.** Whenever the Commission holds a hearing pursuant to this
17 section, the Commission shall:

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

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

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

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

25 ~~9-1~~ **10.** If a person who is not a party to a hearing before the
26 Commission, including, without limitation, a person who has
27 requested an opinion pursuant to paragraph (a) or (b) of subsection
28 2, wishes to ask a question of a witness at the hearing, the person
29 must submit the question to the Executive Director in writing. The
30 Executive Director may submit the question to the Commission if he
31 deems the question relevant and appropriate. This subsection does
32 not require the Commission to ask any question submitted by a
33 person who is not a party to the proceeding.

34 ~~10-1~~ **11.** If a person who requests an opinion pursuant to
35 subsection 1 or 2 does not:

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

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

38 ➤ the Commission may decline to render an opinion.

39 ~~11-1~~ **12.** For good cause shown, the Commission may take
40 testimony from a person by telephone or video conference.

41 ~~12-1~~ **13.** For the purposes of NRS 41.032, the members of the
42 Commission and its employees shall be deemed to be exercising or
43 performing a discretionary function or duty when taking an action
44 related to the rendering of an opinion pursuant to this section.



1 ~~13.~~ 14. A meeting or hearing that the Commission or the
2 panel holds to receive information or evidence concerning the
3 propriety of the conduct of a public officer or employee pursuant to
4 this section and the deliberations of the Commission and the panel
5 on such information or evidence are not subject to the provisions of
6 chapter 241 of NRS.

7 **Sec. 2.** This act becomes effective on July 1, 2007.

