

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

Legislative Counsel's Digest:

Existing law authorizes a public officer or employee to request from the
Commission on Ethics an opinion interpreting the statutory ethical standards and
applying those standards to a particular set of facts and circumstances which
directly relate to the propriety of his own past, present or future conduct as an
officer or employee. (NRS 281.511) This bill requires the Commission to render
the opinion within 45 days after receiving the request.

Existing law also authorizes certain other persons to request from the
Commission an opinion interpreting the statutory ethical standards and applying
those standards to a particular set of facts and circumstances. Upon receipt of such
a request, the Executive Director of the Commission must investigate the facts and
circumstances relating to the request and determine whether there is just and
sufficient cause for the Commission to render an opinion in the matter. The



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13 Executive Director has 45 days after the receipt of the request to investigate and
14 present his recommendation to a panel of the Commission. (NRS 281.511) This bill
15 increases from 45 days to 120 days the period given the Executive Director to make
16 his investigation and present his recommendation to a panel of the Commission.
17 This bill also requires the Commission to disclose the general status of such a
18 request for an opinion to the person 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~~ **within 45 days after**
5 **receiving a** request, on a form prescribed by the Commission, from
6 a public officer or employee who is seeking guidance on questions
7 which directly relate to the propriety of his own past, present or
8 future conduct as an officer or employee. He may also request the
9 Commission to hold a public hearing regarding the requested
10 opinion. If a requested opinion relates to the propriety of his own
11 present or future conduct, the 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



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1 facts and circumstances if the request is submitted by a person who
2 is incarcerated in a correctional facility in this State.

3 3. Upon receipt of a request for an opinion by the Commission
4 or upon the motion of the Commission pursuant to subsection 2, the
5 Executive Director shall investigate the facts and circumstances
6 relating to the request to determine whether there is just and
7 sufficient cause for the Commission to render an opinion in the
8 matter. The public officer or employee that is the subject of the
9 request may submit to the Executive Director any information
10 relevant to the request. The Executive Director shall complete an
11 investigation and present his recommendation relating to just and
12 sufficient cause to the panel within ~~45 days~~ 120 days after the
13 receipt of or the motion of the Commission for the request, unless
14 the public officer or employee waives this time limit. If the
15 Executive Director determines after an investigation that just and
16 sufficient cause exists for the Commission to render an opinion in
17 the matter, he shall state such a recommendation in writing,
18 including, without limitation, the specific evidence that supports his
19 recommendation. If, after an investigation, the Executive Director
20 does not determine that just and sufficient cause exists for the
21 Commission to render an opinion in the matter, he shall state such a
22 recommendation in writing, including, without limitation, the
23 specific reasons for his recommendation. Within 15 days after the
24 Executive Director has provided his recommendation in the matter
25 to the panel, the panel shall make a final determination regarding
26 whether just and sufficient cause exists for the Commission to
27 render an opinion in the matter, unless the public officer or
28 employee waives this time limit. The panel shall not determine that
29 there is just and sufficient cause for the Commission to render an
30 opinion unless the panel has provided the public officer or employee
31 an opportunity to respond to the allegations against him. The panel
32 shall cause a record of its proceedings in each matter to be kept, and
33 such a record must remain confidential until the panel determines
34 whether there is just and sufficient cause for the Commission to
35 render an opinion in the matter.

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

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



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1 such a request are confidential unless the public officer or employee
2 who requested the opinion:

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

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

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

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

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

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

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

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

39 (b) Gives testimony before the Commission may:

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

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



8. *The Commission shall disclose to a person who requests an opinion from the Commission pursuant to paragraph (b) of subsection 2 the general status of his request, including, without limitation, whether the request has been received and an abbreviated summary of the actions that the Commission is taking with regard to the request. The provisions of this subsection do not require the Commission, its officers or members to provide, and do not authorize or entitle a person requesting an opinion to obtain:*

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

(b) Information that is confidential;

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

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

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

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

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

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

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

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

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

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

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

~~11.~~ 11. If a person who requests an opinion pursuant to subsection 1 or 2 does not:

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

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

➔ the Commission may decline to render an opinion.

~~12.~~ 12. For good cause shown, the Commission may take testimony from a person by telephone or video conference.



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

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

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

