

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; 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 as soon as practicable or 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
Executive Director has 45 days after the receipt of the request to investigate and
present his recommendation to a panel of the Commission. (NRS 281.511) This bill



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15 increases from 45 days to 60 days the period given the Executive Director to make
16 his investigation and present his recommendation to a panel of the Commission.

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~~ *as soon as practicable*
5 *or within 45 days after receiving a* request, *whichever is sooner*, on
6 a form prescribed by the Commission, from a public officer or
7 employee who is seeking guidance on questions which directly
8 relate to the propriety of his own past, present or future conduct as
9 an officer or employee. He may also request the Commission to
10 hold a public hearing regarding the requested opinion. If a requested
11 opinion relates to the propriety of his own present or future conduct,
12 the opinion of the Commission is:

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

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

22 (a) Upon request from a specialized or local ethics committee.
23 (b) Except as otherwise provided in this subsection, upon
24 request from a person, if the requester submits:

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

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

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

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

38 3. Upon receipt of a request for an opinion by the Commission
39 or upon the motion of the Commission pursuant to subsection 2, the



1 Executive Director shall investigate the facts and circumstances
2 relating to the request to determine whether there is just and
3 sufficient cause for the Commission to render an opinion in the
4 matter. The public officer or employee that is the subject of the
5 request may submit to the Executive Director any information
6 relevant to the request. The Executive Director shall complete an
7 investigation and present his recommendation relating to just and
8 sufficient cause to the panel within ~~[45-days]~~ **60 days** after the
9 receipt of or the motion of the Commission for the request, unless
10 the public officer or employee waives this time limit. If the
11 Executive Director determines after an investigation that just and
12 sufficient cause exists for the Commission to render an opinion in
13 the matter, he shall state such a recommendation in writing,
14 including, without limitation, the specific evidence that supports his
15 recommendation. If, after an investigation, the Executive Director
16 does not determine that just and sufficient cause exists for the
17 Commission to render an opinion in the matter, he shall state such a
18 recommendation in writing, including, without limitation, the
19 specific reasons for his recommendation. Within 15 days after the
20 Executive Director has provided his recommendation in the matter
21 to the panel, the panel shall make a final determination regarding
22 whether just and sufficient cause exists for the Commission to
23 render an opinion in the matter, unless the public officer or
24 employee waives this time limit. The panel shall not determine that
25 there is just and sufficient cause for the Commission to render an
26 opinion unless the panel has provided the public officer or employee
27 an opportunity to respond to the allegations against him. The panel
28 shall cause a record of its proceedings in each matter to be kept, and
29 such a record must remain confidential until the panel determines
30 whether there is just and sufficient cause for the Commission to
31 render an opinion in the matter.

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

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

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



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

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

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



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(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.

9. 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.

10. 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.

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

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

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

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

