

ASSEMBLY BILL NO. 312—ASSEMBLYMEN HARDY, MABEY,  
GANSERT, BEERS, PARKS, GOEDHART, MARVEL, MCCLAIN,  
SETTELMAYER AND STEWART

MARCH 14, 2007

JOINT SPONSOR: SENATOR CARE

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

SUMMARY—Revises certain provisions relating to ethics in  
government. (BDR 23-527)

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 ethics in government; clarifying the provisions governing ethical standards for public officers and employees concerning gifts; authorizing the Commission on Ethics to render opinions on hypothetical matters upon its own motion; revising the contents of statements of financial disclosure required to be filed by certain candidates for public office and public officers; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

The Nevada Ethics in Government Law prohibits a public officer from accepting gifts in certain circumstances, requires a public officer to disclose and abstain on matters relating to gifts received by the public officer under certain circumstances and requires a public officer or candidate for public office to report certain gifts on his statement of financial disclosure. (NRS 281.481, 281.501, 281.571) **Section 1** of this bill clarifies the meaning of "gift" for the purposes of these provisions.

Under existing law, the Commission on Ethics renders opinions interpreting and applying the statutory ethical standards upon the request of a public officer, a specialized or local ethics committee or a third party or upon the motion of the Commission. **Section 6** of this bill expands the type of opinions that the Commission is authorized to render upon its own motion from opinions regarding the propriety of actual conduct by a public officer or employee to opinions



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regarding the propriety of hypothetical conduct by a public officer or employee.  
(NRS 281.511)

Under existing law, certain candidates for public office and public officers are required to file a statement of financial disclosure, which must include certain prescribed information such as the sources of income of and gifts received by the candidate or public officer. (NRS 281.559-281.571) **Section 7** of this bill expands the information that such a public officer or employee is required to report on his statement of financial disclosure to include a list of certain events related to public office that the candidate or public officer has attended.

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

**Section 1.** Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

*“Gift” means any kind of monetary or other economic benefit which is received by a candidate for public office or public officer without the candidate or officer giving consideration in return, and which would not have been made available to him but for his status as a candidate or officer. The term includes the full or partial forgiveness of indebtedness. The term does not include:*

*1. Any kind of monetary or other economic benefit that is received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity;*

*2. Any kind of monetary or other economic benefit received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer;*

*3. A loan, conveyance, deposit, payment, transfer or distribution of money or other thing of value that is a campaign contribution for the purposes of chapter 294A of NRS; or*

*4. Costs and expenses associated with the attendance of a candidate for public office or public officer, or the spouse or guest of such a person, at an event related to public office or at an event that benefits an organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)(3).*

**Sec. 2.** NRS 281.431 is hereby amended to read as follows:

281.431 As used in NRS 281.411 to 281.581, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 281.432 to 281.4375, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.



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**Sec. 3.** NRS 281.4645 is hereby amended to read as follows:

281.4645 1. The Commission Counsel is the legal adviser to the Commission. For each opinion of the Commission, the Commission Counsel shall prepare, at the direction of the Commission, the appropriate findings of fact and conclusions as to relevant standards and the propriety of particular conduct within the time set forth in subsection ~~4~~ 5 of NRS 281.511. The Commission Counsel shall not issue written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission.

2. The Commission may rely upon the legal advice of the Commission Counsel in conducting its daily operations.

3. If the Commission Counsel is prohibited from acting on a particular matter or is otherwise unable to act on a particular matter, the Commission may:

(a) Request that the Attorney General appoint a deputy to act in the place of the Commission Counsel; or

(b) Employ outside legal counsel.

**Sec. 4.** 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. 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 **or 3** of NRS 281.511; and

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

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

**Sec. 5.** NRS 281.475 is hereby amended to read as follows:

281.475 1. The Chairman and Vice Chairman of the Commission may administer oaths.

2. The Commission, upon majority vote, may issue a subpoena to compel the attendance of a witness and the production of books and papers. Upon the request of the Executive Director or the public officer or public employee who is the subject of a request for an opinion, the Chairman or, in his absence, the Vice Chairman, may issue a subpoena to compel the attendance of a witness and the production of books and papers.

3. Before issuing a subpoena to a public officer or public employee who is the subject of a request for an opinion, the Executive Director shall submit a written request to the public officer or public employee requesting:

(a) His appearance as a witness; or

(b) His production of any books and papers relating to the request for an opinion.

4. Each written request submitted by the Executive Director pursuant to subsection 3 must specify the time and place for the attendance of the public officer or public employee or the production of any books and papers, and designate with certainty the books and papers requested, if any. If the public officer or public employee fails or refuses to attend at the time and place specified or produce the books and papers requested by the Executive Director within 5 business days after receipt of the request, the Chairman may issue the subpoena. Failure of the public officer or public employee to comply with the written request of the Executive Director shall be deemed a waiver by the public officer or public employee of the time set forth in subsections ~~[3]~~ 4 and ~~[4]~~ 5 of NRS 281.511.

5. If any witness refuses to attend, testify or produce any books and papers as required by the subpoena, the Chairman of the



Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend or produce the books and papers required by the subpoena before the Commission, or has refused to answer questions propounded to him, and asking for an order of the court compelling the witness to attend and testify or produce the books and papers before the Commission.

6. Upon such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended, testified or produced the books or papers before the Commission. A certified copy of the order must be served upon the witness.

7. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission, at the time and place fixed in the order, and testify or produce the required books and papers. Upon failure to obey the order, the witness must be dealt with as for contempt of court.

**Sec. 6.** 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 *actual* 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.

3. *The Commission may render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances upon the Commission's own motion regarding the propriety of hypothetical conduct by a public officer or employee.*

4. Upon receipt of a request for an opinion by the Commission pursuant to subsection 1 or 2 or upon the motion of the Commission pursuant to subsection 2, the Executive Director shall investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter. The public officer or employee that is the subject of the request may submit to the Executive Director any information relevant to the request. The Executive Director shall complete an investigation and present his recommendation relating to just and sufficient cause to the panel within 45 days after the receipt of or the motion of the Commission for the request, unless the public officer or employee waives this time limit. If the Executive Director determines after an investigation that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific evidence that supports his recommendation. If, after an investigation, the Executive Director does not determine that just and sufficient cause exists for the Commission to render an opinion in the matter, he shall state such a recommendation in writing, including, without limitation, the specific reasons for his recommendation. Within 15 days after the Executive Director has provided his recommendation in the matter to the panel, the panel shall make a final determination regarding whether just and sufficient cause exists for the Commission to render an opinion in



1 the matter, unless the public officer or employee waives this time  
2 limit. The panel shall not determine that there is just and sufficient  
3 cause for the Commission to render an opinion unless the panel has  
4 provided the public officer or employee an opportunity to respond to  
5 the allegations against him. The panel shall cause a record of its  
6 proceedings in each matter to be kept, and such a record must  
7 remain confidential until the panel determines whether there is just  
8 and sufficient cause for the Commission to render an opinion in the  
9 matter.

10 ~~[4-]~~ 5. If the panel determines that just and sufficient cause  
11 exists for the Commission to render an opinion requested pursuant  
12 to this section, the Commission shall hold a hearing and render an  
13 opinion in the matter within 30 days after the determination of just  
14 and sufficient cause by the panel, unless the public officer or  
15 employee waives this time limit.

16 ~~[5-]~~ 6. Each request for an opinion that a public officer or  
17 employee submits to the Commission pursuant to subsection 1, each  
18 opinion rendered by the Commission in response to such a request  
19 and any motion, determination, evidence or record of a hearing  
20 relating to such a request are confidential unless the public officer or  
21 employee who requested the opinion:

22 (a) Acts in contravention of the opinion, in which case the  
23 Commission may disclose the request for the opinion, the contents  
24 of the opinion and any motion, evidence or record of a hearing  
25 related thereto;

26 (b) Discloses the request for the opinion, the contents of the  
27 opinion, or any motion, evidence or record of a hearing related  
28 thereto; or

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

32 ~~[6-]~~ 7. Except as otherwise provided in this subsection, each  
33 document in the possession of the Commission or its staff that is  
34 related to a request for an opinion regarding a public officer or  
35 employee submitted to or initiated by the Commission pursuant to  
36 subsection 2, including, without limitation, the Commission's copy  
37 of the request and all materials and information gathered in an  
38 investigation of the request, is confidential until the panel  
39 determines whether there is just and sufficient cause to render an  
40 opinion in the matter. The public officer or employee who is the  
41 subject of a request for an opinion submitted or initiated pursuant to  
42 subsection 2 may in writing authorize the Commission to make its  
43 files, material and information which are related to the request  
44 publicly available.



~~7-7~~ 8. Except as otherwise provided in paragraphs (a) and (b), the proceedings of a panel are confidential until the panel determines whether there is just and sufficient cause to render an opinion. A person who:

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

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

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

(b) Gives testimony before the Commission may:

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

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

~~8-8~~ 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.

~~9-9~~ 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.

~~10-0~~ 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.

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





~~[H2.]~~ 13. 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.

~~[H3.]~~ 14. 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. 7.** NRS 281.571 is hereby amended to read as follows:

281.571 1. Statements of financial disclosure, as approved pursuant to NRS 281.541 or in such form as the Commission otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is \$2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes \$5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of \$200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift. ~~[except:~~

~~(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.~~

~~(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial interest in the legislative, administrative or political action of the candidate for public office or public officer.]~~



(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) *A list of each event related to public office that he attended for which \$100 or more of the costs and expenses associated with his attendance and, if applicable, the attendance of his spouse or a guest, at the event, including, without limitation, food, lodging and travel, were paid for by another person or governmental entity or were waived by the sponsor of the event. The list must include, without limitation:*

*(1) The total value of the costs and expenses that were paid or waived; and*

*(2) The identity of the person or governmental entity who paid or waived the costs and expenses.*

(h) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281.541.

3. As used in this section:

(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

(b) *"Event related to public office" means an event, including, without limitation, a conference, convention, course of instruction, meeting, seminar or workshop, attended by a candidate for public office or public officer:*

*(1) That the candidate for public office or public officer would not have attended, but for the fact that he is seeking public office or holds a public office, as applicable;*

*(2) The subject matter of which is related to:*

*(I) If the candidate for public office is seeking or the public officer holds the office of state Senator or Assemblyman, a topic addressed by a legislative committee or subcommittee on which he serves or may serve in the future, as applicable, or the geographic district represented by that office; or*

*(II) If the candidate for public office is seeking or the public officer holds a public office other than the office of state*



1 *Senator or Assemblyman, the official duties of that public office;*  
2 *and*

3 *(3) At which the candidate for public office or public*  
4 *officer engages in one or more activities pertinent to the public*  
5 *office, including, without limitation, making a presentation,*  
6 *delivering a speech, participating in a panel discussion or*  
7 *receiving information, instruction or training.*

8 (c) “Household” includes:

9 (1) The spouse of a candidate for public office or public  
10 officer;

11 (2) A person who does not live in the same home or  
12 dwelling, but who is dependent on and receiving substantial support  
13 from the candidate for public office or public officer; and

14 (3) A person who lived in the home or dwelling of the  
15 candidate for public office or public officer for 6 months or more in  
16 the year immediately preceding the year in which the candidate for  
17 public office or public officer files the statement of financial  
18 disclosure.

